

City of Gainesville

*City Hall
200 East University Avenue
Gainesville, Florida 32601*



Meeting Minutes

Monday, February 23, 2009

5:30 PM

Special Mtg - Strategic Ecosystems

City Hall, Room 17

Community Development Committee

*Commissioner Jack Donovan, Chair
Commissioner Scherwin Henry, Member
Commissioner Thomas Hawkins, Member*

Persons with disabilities who require assistance to participate in this meeting are requested to notify the Equal Opportunity Department at 334-5051 or call the TDD phone line at 334-2069 at least two business days in advance.

CALL TO ORDER

ROLL CALL

Present: Jack Donovan, Scherwin Henry and Thomas Hawkins

ADOPTION OF THE AGENDA

The Community Development Committee adopted the February 23, 2009 agenda as circulated.

APPROVAL OF MINUTES

There were no previous Special Meeting - Strategic Ecosystems minutes to approve.

DISCUSSION OF PENDING REFERRALS

070604.

Annexation of Strategic Ecosystems (B)

The Community Development Committee heard a presentation by Stefanie Nagid, Interim Program Coordinator-Habitat Naturalist, Nature Operations Division, on Significant Ecological Communities Protection Strategy. Staff addressed Existing Overlay District Problems, the Existing Land Development Code, Recommendations and Alternatives to the overlay-type approach and 3 tier approach.

Staff submitted and discussed the Framework Draft of the City of Gainesville - Significant Ecological Communities Protection Strategy:

INTRODUCTION

In 2000, the City Commission directed staff to consider additional environmental regulations to protect significant environmental features on remaining undeveloped parcels within the city. Staff evaluated all vacant parcels over 2 acres and ranked them ecologically from Low to Outstanding. The results of this study were presented in the 2001 Environmental Resources Report. In 2004, the Commission adopted code to create a Significant Ecological Communities (SEC) Overlay District, which requires additional environmental review and setbacks on High or Outstanding parcels that are rezoned into the district.

However, to date, only a handful of parcels have been rezoned into the District, and the City's methodology has come under legal challenge. The SEC Overlay District is not successfully achieving the Commissions' goal of protecting sensitive environmental features. The City's current SEC Overlay approach needs to be modified for the following reasons:

- 1. The environmental evaluations done for the 2001 Environmental Resource Report are not "competent and substantial evidence" as required to rezone properties into the Overlay District.*
- 2. Parcels were evaluated in groups, but rezoning based on these evaluations has*

been challenged because aggregation of parcels is not addressed in the current SEC Overlay Ordinance (Chapter 30, Section 30-309).

3. The code language allowing a property to be excluded from the Overlay may place an unreasonable burden on landowners by requiring them to prove a subjective criteria does not exist on their property.

4. The current ordinance is not clearly written.

5. Significant ecological features may occur on properties not ranked as high or outstanding. These features receive no additional protection under the current ordinance.

Also, existing City land development code identifies environmental features that require specific set-backs or buffers, but additional environmental features are not adequately protected and should be added to City code (Table 1). Upon examination of current City codes, County codes, and procedures, the SEC Protection Committee recommends the following strategy.

RECOMMENDATION

The SEC Protection Committee recommends a two-tiered strategy to protect significant ecological communities and features.

Tier 1: Parcels in County designated strategic ecosystems and annexed into the City. These are parcels annexed into the City of Gainesville (COG) and located within designated Alachua County strategic ecosystem boundaries (Figure 1). Given that the County's strategic ecosystem regulations are based on a published, accepted, and defensible environmental report, the City should adopt generally similar code requirements to maintain the integrity of the designated ecosystems.

Development within County strategic ecosystem boundaries would require an environmental assessment report, a management plan, and additional setbacks (Table 1), unless otherwise deemed unnecessary through City staff review. These protections would apply only to this tier of properties. Since strategic ecosystems are already designated in County regulations, property owners are familiar with these methods and regulations; furthermore, the County's strategic ecosystems are located in rural rather than urban areas. For these reasons it is anticipated that adoption of requirements generally similar to the County's will be most effective for resource protection as well as public support for future annexation of these areas.

Tier 2: All other parcels in the City

These are properties that are already within COG limits or that are annexed into COG limits but not within designated County strategic ecosystem boundaries (Figure 1). Protections for these properties will be applied on a parcel by parcel basis as landowners file for development permits. The existing city permit review process will remain, with the addition of the revised list of protected features in Table 1 to the land development code. The additional setbacks, management plan, and environmental assessment report required for Tier 1 parcels will not apply to these properties. However, if during the application review process, City staff identifies significant environmental features, than an environmental assessment could be required.

A brief description of how the process will work is as follows:

1. *Parcels in County designated strategic ecosystems and annexed into the City:*
 - a. *The developer must submit a development permit application as per the City's revised land development code (Table 1).*
 - b. *City staff will review the permit application with assistance from Nature Operations Division (NOD) staff if requested.*
 - c. *City staff will screen the parcel for protected features using GIS.*
 - d. *City staff will ground truth the parcel for significant environmental features.*
 - e. *The developer will submit an environmental assessment report accompanied by a management plan as prepared by an environmental professional, unless otherwise deemed unnecessary by City staff review.*
 - f. *City staff will review the environmental assessment report and management plan for accuracy and provide any development limitations in written comments to the developer and discuss as necessary.*

2. *All other parcels in the City:*
 - a. *The developer will submit a site plan with their development permit application as per the City's revised land development code.*
 - b. *City staff will review the permit with assistance from NOD staff if requested.*
 - c. *City staff will screen the parcel for protected features using GIS.*
 - d. *City staff will ground truth the parcel for significant environmental features to verify the submitted site plan. If significant environmental features are found, a formal environmental assessment may be required.*
 - e. *The developer will provide a revised permit application if necessary.*
 - f. *Any development limitations will be provided in written comments to the developer and discussed as necessary.*

ALTERNATIVE

If it is deemed desirable to retain the overlay-type approach, the following steps would need to be taken to achieve a fully functional and defensible strategy:

1. *Hire an environmental consultant to reevaluate parcels within City limits, individually rank them, and develop an SEC area map.*
2. *Rewrite the SEC Overlay Ordinance to address the aggregation issue and for clarity.*
3. *Revise Chapter 30 of the Land Development Code.*
4. *Individually rezone any high or outstanding ranked parcels.*

This approach would be more time-consuming and costly than the Recommendation. However, an alternative to the aforementioned Recommendation that could still retain the overlay-type approach, but which would include major revisions to existing City code and ordinances is as follows:

Tier 1: Parcels in County designated strategic ecosystems and annexed into the City
These are parcels annexed into the City of Gainesville and located within designated Alachua County strategic ecosystem boundaries (Figure 1). These would receive the same protections described under Recommendation Tier 1 above.

Tier 2: Parcels located in City designated SEC areas
City staff will hire an environmental consultant to generate the SEC area map based on identification of areas within the city that are the most ecologically significant.

The land development code will be revised to include the use of this map as well as the additions from Table 1.

Protections for parcels within the SEC areas will be applied on a parcel by parcel basis as landowners file for development permits. These properties will need to provide an environmental assessment report from an environmental professional with their land development permit application. If a parcel is within or partly within the SEC area, then the following steps will be taken:

- 1. As part of the development review process, the specific location and extent of significant environmental features shall be determined through ground-truthing by City staff.*
- 2. If the features, in combination with other required upland buffers for environmental features, are less than 50 percent of the upland portion of the parcel, the entire SEC area shall be protected.*
- 3. If the features, in combination with other required upland buffers for environmental features, are greater than 50 percent of the upland portion of the parcel, the City shall work with the applicant to select that portion of the SEC area that will be included in the set-aside area. Development densities on any portion of the SEC area outside the set-aside area shall be calculated at the lowest density allowed by the established zoning district.*
- 4. The set-aside area shall be restricted from further subdivision and protected in perpetuity using a legal instrument that runs with the land, such as a conservation easement.*
- 5. A management plan shall be required for all development applications involving properties with ? 4 acres of regulated natural or historic resources.*

Tier 3: All other parcels in the City

These are properties that are already within COG limits or that are annexed into COG limits but not within designated County strategic ecosystem or City SEC area boundaries. Protections for these properties will be applied on a parcel by parcel basis as landowners file for development permits. The existing city permit review process will remain, with the addition of the revised list of protected features in Table 1. The additional setbacks, management plan, and environmental assessment report required for Tier 1 parcels will not apply to these properties. However, if during the application review process, City staff identifies significant environmental features, than an environmental assessment could be required.

A brief description of how the process will work is as follows:

- 1. Parcels in County designated strategic ecosystems and annexed into the City:*
 - a. The developer must submit a development permit application as per the City's revised land development code (Table 1).*
 - b. City staff will review the permit application with assistance from NOD staff if requested.*
 - c. City staff will screen the parcel for protected features using GIS.*
 - d. City staff will ground truth the parcel for significant environmental features.*
 - e. The developer will submit an environmental assessment report accompanied by a management plan as prepared by an environmental professional, unless otherwise deemed unnecessary by City staff review.*
 - f. City staff will review the environmental assessment report for accuracy and*

provide any development limitations in written comments to the developer and discuss as necessary.

2. Parcels located in City designated SEC areas:

- a. The developer must submit a development permit application as per the City's revised land development code (Table 1).*
- b. City staff will review the permit with assistance from NOD staff if requested.*
- c. City staff will screen the parcel for protected features using GIS.*
- d. City staff will ground truth the parcel for significant environmental features.*
- e. The developer will submit an environmental assessment report (for parcels ? 2 acres) accompanied by a management plan (for parcels ? 4 acres) as prepared by an environmental professional, unless otherwise deemed unnecessary by City staff review.*
- f. City staff will review the environmental assessment report for accuracy and provide any development limitations in written comments to the developer and discuss as necessary.*

3. All other parcels in the City:

- a. The developer will submit a site plan with their development permit application as per the City's revised land development code.*
- b. City staff will review the permit with assistance from NOD staff if requested.*
- c. City staff will screen the parcel for protected features using GIS.*
- d. City staff will ground truth the parcel for significant environmental features. If significant environmental features are found, a formal environmental assessment may be required.*
- e. The developer will provide a revised permit application if necessary.*
- f. Any development limitations will be provided in written comments to the developer and discussed as necessary.*

SCHEDULE

The following steps will be taken if the recommendation is accepted to ensure that a new strategy will be implemented in a timely fashion. If the recommendation is not accepted, this schedule will need to be adjusted to account for the additional steps as previously outlined.

- 1. NOD staff will review and revise the strategy and the list of protected features as well as the standards of protection necessary (i.e. set-backs, buffer limits, etc.). (December 2008) - completed*
- 2. The Committee will review the County's strategic ecosystem approach and modify City code to be generally similar as necessary to suit the City's needs. (December 13-18, 2008) - completed*
- 3. The revised strategy and list of protected features will be discussed by the Committee and a final draft will be agreed upon. (December 22, 2008 - January 5, 2009) - completed*
- 4. The final draft of the strategy will be provided to the City Attorney for comment. (January 5, 2009) - completed*
- 5. The subcommittee will meet with the City Manager to discuss the strategy and revise as necessary. (January 8-9, 2009) - completed*
- 6. The strategy will be discussed with selected stakeholders. (January 12-February 20, 2009) - in-progress*
- 7. The subcommittee will revise the final draft of the strategy as necessary based on*

all comments/suggestions. (February 16-20, 2009) - in-progress

8. Staff will present the final version of the strategy to the CDC. (February 23, 2009)

9. Staff will present the final version of the strategy at the City Commission meeting for approval. (March 19, 2009)

10. Staff will prepare the final approved version of the strategy based on CDC and Commission comments/approval. NOD staff will coordinate with Planning Department staff to finalize the revisions to the land development code (March/April 2009)

11. Planning Department staff will prepare a petition to the Plan Board to incorporate the strategy and new list of protected features into the city's land development code. (April/May 2009)

12. The Plan Board petition that will revise City Code will be submitted to the Commission for approval. (May/June 2009)

Located in the Legistar back-up is a table of comparison between Alachua County and the City of Gainesville regulations: Table 1. Current City and County environmental regulations with recommended revisions to the City of Gainesville Land Development Code. Sources of information are from Alachua County Chapter 406-Unified Land Development Code and City of Gainesville Chapter 30-Land Development Code.

The Community Development Committee directed staff to further analyze Table 1 to answer a question posed by Commissioner Henry as to are the City regulations Less Restrictive, More Restrictive or Equal to Alachua County regulations?

The Community Development Committee directed staff to report back at the CDC Regular meeting to be held February 26, 2009.

RECOMMENDATION *The Community Development Committee hear from staff a new approach to Protection of Strategic Ecosystems and Environmentally Sensitive Land citywide.*

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NEXT MEETING DATE

ADJOURNMENT