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ORDINANCE NO. _____
0-05-95

An ordinance of the City of Gainesville, Florida, amending the Land Development Code relating to cluster subdivisions; amending section 30-190, establishing criteria for classifying cluster subdivisions as either environmental or infill, establishing lot sizes, clarifying the cluster open space requirement, and modifying the criteria for the review of cluster subdivisions; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, the City Plan Board authorized the publication of notice of a Public Hearing that the text of the Land Development Code of the City of Gainesville, Florida, be amended; and

WHEREAS, notice was given and publication made as required by law and a Public Hearing was then held by the City Plan Board on August 18, 2005; and

WHEREAS, the City Commission heard and approved this petition on September 26, 2005; 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 Auditorium of City Hall in the City of Gainesville; and

WHEREAS, the Public Hearings were held pursuant to the published notice described 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:

1 Section 1. Section 30-190, City of Gainesville Land Development Code, is
2 amended to read as follows:

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

- 4 (a) *Purpose and intent.* The purpose of this section is to establish a process by which
5 environmentally sensitive land and infill sites may be developed for residential
6 purposes without strict adherence to the dimensional requirements of the zoning
7 code of the city. The intent is to encourage better site planning than would
8 normally occur by conventional subdivision procedures. Specifically, the
9 objectives are to better preserve valuable open spaces, environmentally sensitive
10 areas, existing tree cover ~~and scenic vistas~~; to provide for infill development
11 where appropriate; to provide for better utilization of land; to provide for zero lot
12 line development; to promote efficiency through design ~~which shortens street and~~
13 ~~utility lines thereby reducing required investment in such infrastructure and its~~
14 ~~maintenance~~; and to provide for design flexibility to meet changing market
15 conditions. Such development will be accomplished without an overall increase in
16 density otherwise permitted in the zoning district in which the development is
17 located as determined by the minimum lot size.
- 18 (b) *Permitted districts; minimum size.* A cluster subdivision may be permitted in any
19 zoning district in which single-family dwellings are allowed as a permitted use
20 and where the parcel to be subdivided has an area of 40,000 square feet ≥ 5 acres
21 or more.
- 22 (c) *Approval procedure; design standards; name.*
- 23 (1) Cluster developments shall be approved in accordance ~~to~~ with the
24 procedures established for design plats and final plats under criteria
25 provided in this article. Further, cluster subdivisions involving attached
26 housing in zoning districts that allow such housing types, shall also secure
27 development plan approval in accordance with Article VII. Applications
28 for the approval of cluster subdivisions shall be processed in the same
29 manner as design plats.
- 30 (2) Design standards for improvements shall be in accordance with the
31 provisions and regulations of this chapter.
- 32 (3) The name of a subdivision approved pursuant to this article shall be
33 followed by the words "cluster subdivision" which shall become and be
34 made a part of its official name.
- 35 (4) Application for cluster subdivision will be classified as either
36 environmental or infill based on the following criteria:
- 37 Environmental – development site must be located in the Significant
38 Ecological Communities Districts or have at least two one or more of the
39 following environmental features: wetlands, creeks, lakes, significant tree

1 grouping/upland community, sinkholes, and/or endangered plants and
2 animals species.

3 Infill – Cluster subdivision that provide for infill development where
4 appropriate, provide for better utilization of land, provide for zero lot line
5 development, and/or promote efficiency through design.

6 (d) *Dwelling types permitted.* Except in the RSF-1, RSF-2, RSF-3 and RSF-4 zoning
7 districts, all types of attached and detached single-family residential dwellings
8 may be permitted in a cluster subdivision. In the RSF-1, RSF-2, RSF-3 and RSF-4
9 districts only single-family detached dwellings will be permitted in a cluster
10 subdivision. Within cluster subdivisions, a variety of lot sizes and architectural
11 typologies housing types shall be encouraged.

12 (e) *Modification of street, yard and lot requirements.* Modifications and variations to
13 the lot area, lot width and depth, ~~and~~ minimum yard setback, street width and
14 layout requirements of the applicable zone may be permitted if shown on the
15 design plat and such plat is approved by the ~~development review board and city~~
16 commission. Each cluster subdivision may use zero lot line, regular lots or a
17 combination of the two. However, each lot in a cluster subdivision which directly
18 abuts developed property not in a cluster subdivision shall not:

19 (1) Have an abutting side or rear yard which is less than that required for the
20 abutting property; and

21 (2) Have a lot width, which is less than 75 percent of the minimum lot width
22 required in the zoning district for the abutting property.

23 The provisions of (1) and (2) above may be waived if the subdivision provides a
24 35-foot buffer around the subdivision to which no variance will be permitted.

25 No cluster subdivision shall have lot sizes that are less than the following for
26 single family districts:

27 RSF-1 (8500 square feet minus 25%) 6375 square feet

28 RSF-2 (7500 square feet minus 25%) 5625 square feet

29 RSF-3 (6000 square feet minus 25%) 4500 square feet

30 RSF-4 (4300 square feet minus 25%) 3225 square feet

31

32 (f) *Number of dwelling units permitted.* The total number of dwellings permitted in a
33 cluster subdivision shall not exceed the number of dwelling units, which would
34 have been otherwise permitted by the density standards in the zoning district in
35 which it is located. In the RSF-1, RSF-2, RSF-3, RSF-4, RMF-5 and RC district
36 categories, the permitted number of dwelling units may be calculated by dividing
37 the total land area of the cluster subdivision by the minimum lot size required for
38 the applicable zoning district. The number of dwelling units shall not exceed the

1 density allowed by the zoning district.

2 (g) *Cluster open space requirement.*

3 (1) Each cluster subdivision that reduces lot sizes below the minimum area
4 required by the zoning district in which it is located shall provide cluster
5 open space to be preserved and maintained for its scenic value, for
6 recreational or conservation purposes and other related uses. This space
7 shall be clearly indicated on the plat by the use of the words "cluster open
8 space." The minimum amount of land to be designated as cluster open
9 space shall be equivalent to seventy-five (75) percent of the total amount
10 of area by which each lot was reduced below the minimum lot size
11 required in the zoning district plus any required wetland, creeks and
12 associated buffer acreage in which the subdivision is located. Cluster open
13 space is not required unless lot sizes are reduced below the minimum area
14 required in a zoning district.

15 (2) Land area devoted to public or private vehicular streets and sidewalks,
16 rights-of-way and drainage structures shall not be included towards
17 meeting cluster open space requirements except when such land is being
18 jointly used for a greenway corridor as specified by subsection 30-187(o).
19 For the purposes of this section "drainage structures" shall be defined as
20 culverts, storm drains and stormwater retention or detention ponds. ~~with~~
21 ~~side slopes that must be stabilized by artificial means.~~ Fifty percent
22 of drainage facilities (unfenced) that utilize existing topography, have side
23 slopes that are stabilized by sod, grass or other plantings, or provide a
24 recreational or aesthetic amenity, provide environmental quality and
25 ecological value, and utilize native plants to create an aquatic or a
26 temporary aquatic type of ecosystem to the development, may be included
27 towards meeting cluster open space requirements. Unless otherwise
28 restricted, cluster open space may contain accessory structures and
29 improvements necessary for the educational, cultural, recreational or social
30 enjoyment of the residents or citizens plus any necessary utility services.
31 The appropriateness of accessory structures will be reviewed and
32 considered in terms of their enhancement of the cluster open space, the
33 purposes as provided in subsection (a) of this section, and the criteria as
34 provided in subsection 30-190(i). Accessory structures may be approved
35 during the design plat review process, or during the development plan
36 review process subject to the provisions of this section and the provisions
37 of Article VII. Accessory structures are prohibited within wetlands,
38 creeks, lakes and associated buffers.

39 (3) Environmentally significant features such as but not limited to, creeks,
40 creek setback buffers, wetland, wetland setback buffers, flood channels,
41 floodplain areas, major tree groupings and individual trees of significant
42 size must be designated as cluster open space. Notwithstanding any
43 contrary language contained in section 30-301 or other city regulations, all

- 1 wetlands mitigation for a cluster subdivision must be done on site.
- 2 (4) The cluster subdivision shall strive to must protect all healthy heritage
3 trees. The restrictive covenants for the cluster subdivision shall require
4 that homes and other improvements are designed to protect the trees.
- 5 (h) *Ownership of cluster open space.*
- 6 (1) *Public ownership.* Cluster open space may be conveyed to the city unless
7 the city commission finds that the size, location, nature and type of
8 development, or fiscal impact (i.e., the cost and maintenance of
9 development or open space) would make public use undesirable or
10 unnecessary. Such conveyance shall be by statutory warranty deed free and
11 clear of all liens and encumbrances, and shall take place on or before the
12 recordation of the subdivision plat. In some instances, the city commission
13 may authorize the conveyance of the cluster open space by a conservation
14 easement as provided in F.S. § 704.06, when the nature and character of
15 the cluster open space is suitable for such easement. Where the cluster
16 subdivision encompasses lands designated for greenways or other forms of
17 public ownership or access under the recreation; conservation, open space
18 and groundwater recharge; and stormwater management elements of the
19 comprehensive plan, the city may require dedication of such areas to the
20 city as specified by subsection 30-187(o).
- 21 (2) *Private ownership.* Where open space is not dedicated to the city or public
22 use, it shall be protected by legal arrangements satisfactory to the city
23 attorney sufficient to assure its maintenance and preservation for the
24 purpose(s) intended. Covenants or other legal agreements shall specify, at
25 a minimum, the ownership of the cluster open space, method of
26 maintenance, maintenance of taxes and insurance, compulsory
27 membership and assessment provisions; guarantees that any homeowners'
28 association formed to own and maintain cluster open space will not be
29 dissolved without the consent of the city; and any other provisions deemed
30 necessary by the city attorney to meet the requirements of this section.
- 31 (i) *Criteria for review of cluster subdivisions.* A cluster subdivision shall provide for
32 better utilization of land and for a total environment, which is improved
33 over that which could be achieved under standard regulations. The
34 applicant must present evidence that the proposed cluster subdivision
35 utilizes the land better than a standard subdivision. If the city commission
36 finds that a subdivision will be improved by the reasonable modification
37 of the location, design or configuration of open space, building lots, streets
38 and parking areas, the subdivision will be modified or denied. The
39 following criteria shall guide the ~~development review board and city~~
40 ~~commission~~ city in review of the proposed subdivision and in making any
41 modifications thereof:
- 42 (1) Individual lots, buildings, streets and parking areas shall be designed and

- 1 situated to minimize alteration of the natural site features and topography.
2 A minimum of 50% of all heritage trees must be protected. All lot shall be
3 designed so that heritage trees 20 inches or larger lie fully outside of the
4 building setback lines and buildable area.
- 5 (2) Individual lots, buildings and other structures shall be arranged and
6 situated to relate to surrounding properties and to improve the view from,
7 and the view of, buildings, lots and structures.
- 8 (3) Individual lots, buildings, streets and parking areas, and any accessory
9 structures and improvements located in the cluster open space, shall be
10 situated to avoid the adverse effects of shadows, noise and traffic on the
11 residents of the site and to minimize the area devoted to motor vehicles.
- 12 (4) Cluster open space shall include any irreplaceable natural features located
13 on the tract such as, but not limited to, stream beds and adjacent banks,
14 wetlands, flood channels, floodplain areas, major tree groupings and
15 individual trees of significant size.
- 16 ~~(5) The suitability of cluster open space intended for scenic value shall be~~
17 ~~determined by its visibility from a significant number of units or buildings~~
18 ~~or streets.~~
- 19 (56) The usability of cluster open space intended for recreation or public use
20 shall be determined by the size, shape, topographic and location
21 requirements of the particular purpose proposed for the open space.
22 Further, such space intended for recreation or public use shall be easily
23 accessible to trail users including the elderly and handicapped, be
24 integrated to form unbroken trail linkages between uses within the
25 subdivision, and take advantage of opportunities to establish off-site
26 linkages to nearby land uses, bikeways, sidewalks and greenways.
- 27 (67) To the extent practical, lands designated for greenways or other forms of
28 public ownership or access in the conservation, open space or recreation
29 element shall be included as cluster open space and dedicated as specified
30 by subsection 30-187(o).
- 31 (78) Diversity and originality in lot layout and individual building design shall
32 be encouraged to achieve the best possible relationship between the
33 development and the land. Garage doors if forward facing must be set back
34 at least 20 feet from the back of sidewalk and shall not be forward of the
35 front façade of the building. Sidewalks must be included on both sides of
36 the street internal to the cluster subdivision.
- 37 (89) To the extent practical, cluster open space shall contain designated surface
38 water or upland environmental features.
- 39 (940) When lots abut wetlands or buffer areas, the property owner shall provide
40 a 10-foot building construction setback from those areas for a construction

1 work area, so that wetlands and buffer areas are not disturbed during any
2 construction process.

3
4 **Section 2.** It is the intention of the City Commission that the provisions of
5 Section 1 of this ordinance shall become and be made a part of the Code of Ordinances of
6 the City of Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance
7 may be renumbered or relettered in order to accomplish such intentions.

8 **Section 3.** If any section, sentence, clause or phrase of this ordinance is held to be
9 invalid or unconstitutional by any court of competent jurisdiction, then said holding shall
10 in no way affect the validity of the remaining portions of this ordinance.

11 **Section 4.** All ordinances, or parts of ordinances, in conflict herewith are to the
12 extent of such conflict hereby repealed.

13 **Section 5.** This ordinance shall become effective immediately upon final
14 adoption.

15 **PASSED AND ADOPTED** this ____ day of _____, 2007.

16
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18 _____
19 PEGEEN HANRAHAN, MAYOR

20 ATTEST: Approved as to form and legality

21
22
23 _____
24 KURT M. LANNON
CLERK OF THE COMMISSION

25 _____
MARION J. RADSON
CITY ATTORNEY

26 This Ordinance passed on first reading this ____ day of _____, 2007.

This Ordinance passed on second reading this ____ day of _____, 2007.