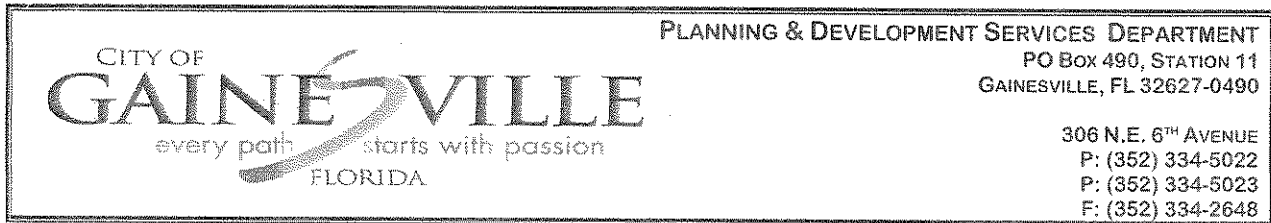


**LEGISLATIVE #**

**120642A**



**TO:** City Plan Board **Item Number: 8**

**FROM:** Planning & Development Services Department **DATE: December 3, 2012**  
Staff

**SUBJECT:** PB-12-113 TCH. City Plan Board. Amend the Land Development Code Section 30-310 Natural and Archaeological Resources to add an optional, binding pre-application determination process for natural and archaeological resources and add an associated fee in the Code of Ordinances.

**Recommendation:**

Approve Petition PB-12-113 TCH and provide direction to staff concerning which board should review and approve the optional, binding pre-application resource determinations. Planning staff recommends that the Plan Board be the reviewing board.

**Discussion**

On July 19, 2012, the City Commission made a motion to recommend that staff initiate a Plan Board petition to address the issue of predetermination of protections related to the Natural and Archaeological Resources Protection ordinance. This motion was included as part of the motion to approve the Natural and Archaeological Resources (NAR) Protection ordinance on first reading (Ordinance 110076). The City Commission discussion included topics such as a binding pre-determination of natural and archaeological resources to assist developers in knowing what resources might exist on a site and whether the binding pre-determination should be subject to some public hearing process so that the due process rights of impacted parties would be protected if a binding decision was made.

Staff has initiated Petition PB-12-113 TCH in response to the Commission recommendation. Exhibit A-1 includes the proposed amendment language to the NAR in Section 30-310 of the Land Development Code.

The proposed text provides for an optional, pre-application binding resource determination process. As indicated in the text, the process is intended to assist applicants in determining if and where regulated natural and archaeological resources may be located on a property. It is specifically not intended to include any review of proposed set aside areas or mitigation. That would occur at the time of development review.

The amendment language proposes the use of a binding agreement letter to assure that the proper geographic area is being studied. The submitted study will be reviewed by staff and then submitted to a board for final review and approval as part of a public hearing process. Staff is recommending that the Plan Board be the reviewing board for these binding determination

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PB-12-113 TCH  
December 3, 2012

reviews. The approval period is not to exceed two years from the date of final board approval of the binding pre-application resource determination.

Staff has included required updates due to the extended period between the study and an application for development review of a development proposal. An update of regulated sinkholes and listed species is required with a development application. Sinkholes may occur at any time, and if they are regulated sinkholes, it will be important to have this updated information at development plan review to ensure proper buffers around the sinkhole. The update on the listed species is required because listed species may be added or de-listed during the interim period. In addition, changed conditions at the site may cause a species to move into or out of the site.

In the case of major change at the site (including flood, fire, major storm, or adjacent new development), an update of the study is required. These major change factors could cause natural resource changes even during the two-year period and need to be accounted for.

There are fees associated with this optional type of review and they are included in Exhibit A-1 as changes to the Code of Ordinances.

Respectfully submitted,

  
Ohelia Lazzari, AICP  
Principal Planner

#### **List of Exhibits**

Exhibit A-1: Proposed pre-application binding resource determination process

Exhibit B-1: Petition Application