



**City of Gainesville  
Department of Sustainable Development  
Planning Division**

PO Box 490, Station 11  
Gainesville, FL 32627-0490  
306 NE 6<sup>th</sup> Avenue  
P: (352) 334-5022  
F: (352) 334-2648

**DEVELOPMENT REVIEW BOARD STAFF REPORT**

**PUBLIC HEARING DATE:** June 30, 2020

**ITEM NO:** 2.

**PROJECT NAME AND NUMBER:** Naylor Stetter Special Permit for Septic Tank Distance from Wetland Limits, DB-20-49 SPT

**APPLICATION TYPE:** Special Permit

**CITY PROJECT CONTACT:** Lawrence Calderon, Planner III

**APPLICATION INFORMATION:**

**Agent/Applicant:** Jan Frentzen

**Property Owner(s):** Gavin J. P. Naylor and Vernonika C. Stetter.

**Related Petition(s):** N/A

**Legislative History:** None

**Neighborhood Workshop:** Not Required

**SITE INFORMATION:**

**Address:** 2522 NW 23<sup>rd</sup> Terrace.

**Parcel Number(s):** 06090-005-000L

**Acreage:** Approximately 48,308 square feet (1.109 Acres)

**Existing Use(s):** Vacant, undeveloped. (Proposed new single-family dwelling)

**Land Use Designation(s):** SF: Single Family

**Zoning Designation(s):** PD: Single-family Residential

**Overlay District(s):** None

**Transportation Mobility Program Area (TMPA):** Area B

**Water Management District:** St. John's River Water Management District

**Special Feature(s):** Property is in a subdivision consisting of lots over one acre with no central sewer services. All existing developed lots are served by septic tanks. Property is an older Planned Development.

**Annexed:** 1979

**Code Violations:** No record of Code Violations

## BACKGROUND AND EXPLANATION:

### Background:

The subject property is part of a 42.5-acre tract of land lying along the north side of NW 23<sup>rd</sup> Avenue and west of the extended right-of-way of NW 23<sup>rd</sup> Street. The property was annexed into the City of Gainesville in 1979 and is currently zoned PD (Single-family Residential). A portion of Ridgeview Creek runs north/south through the property, dividing it into an east portion subdivided as Feather Wood and the west portion subdivided as Feather Wood, Unit 2.

**Map 1. General Location Map of Proposed Single-Family Dwelling.**



The subject property is located within the Feather Wood subdivision which contains 15 lots ranging in size from 27,878 to 113,692 square feet. All lots are accessed off NW 23<sup>rd</sup> Terrace, which is a cul-de-sac that branches north from NW 23<sup>rd</sup> Avenue.

All lots within the subdivision exceed the minimum dimensions of 90 feet deep by 85 feet wide, which are the designated standards of the RSF-1 zoning district surrounding the PD. The subject property is 48,308 square feet with dimensions of 117 feet wide and a depth of more than 220 feet extending to the creek. The property has a Single Family land use designation and a zoning of PD (Single-family Residential. Currently there are no zoning violations, the property complies with all the dimensional standards of the PD zoning district.

<b>ADJACENT PROPERTY CHARACTERISTICS:</b>
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	EXISTING USE(S)	LAND USE DESIGNATION(S)	ZONING DESIGNATION(S)
North	Single family dwelling	SF: Single-Family	PD: (Single-Family Residential)
South	Single family dwelling	SF: Single-Family	PD: (Single-Family Residential)
East	Single family dwelling	SF: Single-Family	PD: (Single-Family Residential)
West	Single family dwelling	SF: Single-Family	PD: (Single-Family Residential)

**Explanation:**

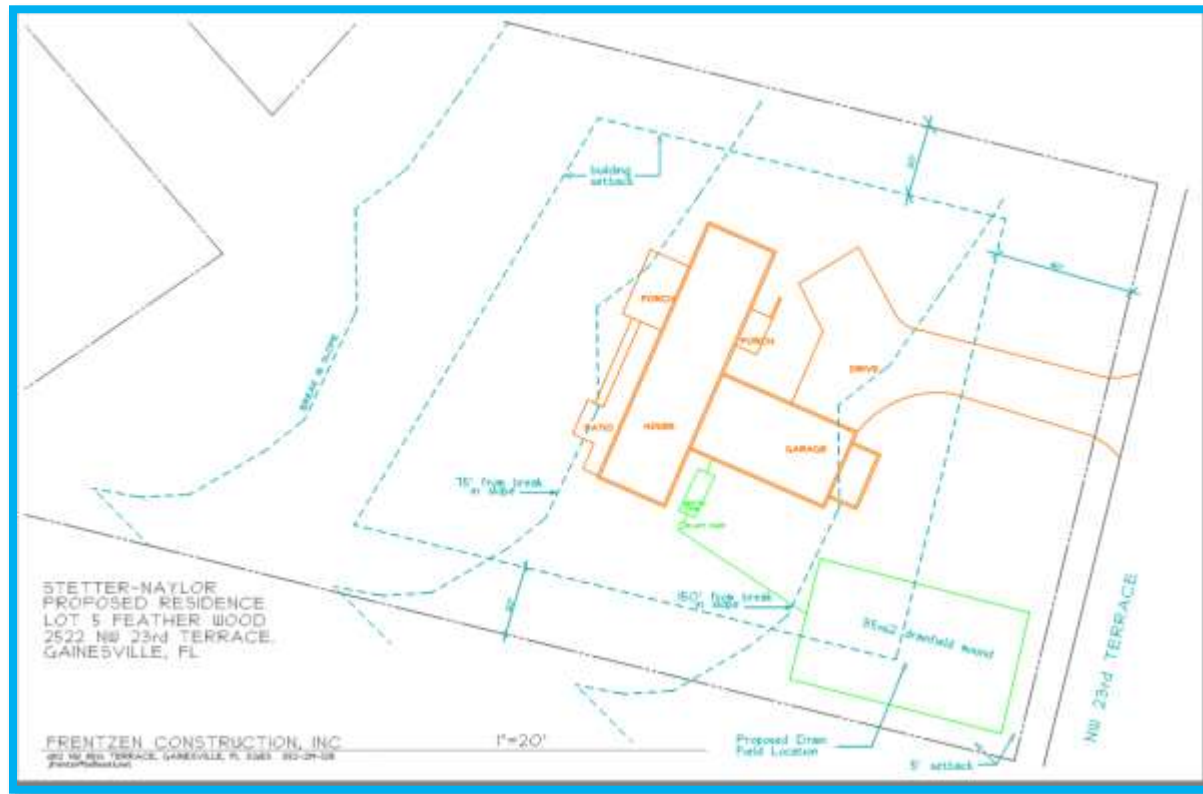
According to records from Alachua County Property Appraiser's office, Gavin J. P. Naylor and Vernonika C. Stetter, (hereinafter referred to as "Owners"), purchased the subject property in May of 2017 in its current unimproved state. Mr. Jan Frentzen, agent for the owners, contacted the City about construction of a single-family dwelling on the parcel (See Map 2.). Due to the proximity of the proposed development to a regulated creek and associated wetlands, use of a septic tank and placement of the building, staff conducted a field investigation and mapped out the break of slope. Staff instructed the applicant to survey the 75-foot and 150-foot distance from the break of slope.

The survey revealed the following:

1. The proposed development setbacks comply with zoning development standards;
2. Parts of the proposed building are within 75 feet from the break of slope;
3. The proposed building is within 150 feet from the break of slope;
4. The proposed septic tank is beyond 75 feet from the break of slope but within 150 feet from the break of slope; and,
5. The proposed septic tank drain field is beyond the 150 feet from the break of slope.

The subject property is zoned PD which outlines the development standards for the district. The development complies with the standards of the PD.

### Map 2: Siteplan and Break of Slope



### STAFF ANALYSIS:

Staff reviewed this petition in the context of the Surface Waters and Wetlands regulations. The code states that developments shall be reviewed to determine whether the proposed development impacts regulated surface waters or wetlands, and if so, whether the proposed development complies with the Comprehensive Plan, the Land Development Code and other applicable law with respect to surface waters and wetlands.

### Development Relative to Surface Waters, Wetlands and Lakes

Section 30-8.20 of the Land Development Code states that "... Except as otherwise provided, there shall be no development in, on or over a surface water or wetland, or within 75 feet of the landward extent of a regulated lake, or within 35 feet of the break in slope at the top of the bank of any regulated creek. ..." (See Map 2.). The code further states that; "... For development activity between 35 and 150 feet from the break in slope at the top of the bank of any regulated creek, it is a rebuttable presumption that the development activity is detrimental to the regulated creek and is therefore prohibited unless approval is granted in accordance with the following standards:



### Map 3: Location of Regulated Creek Relative to Feather Wood Subdivision



- Staff has determined that the proposed development will not introduce erosion and sediment pollution into the creek. The distance between the wetlands associated with the creek and the building is approximately 75 feet and contains a lush covering of shrubs and mature vegetation that would limit erosion and prevent sedimentation wash into the creek. The grade change (horizontal distance to elevation) between the creek and the break of slope is relatively steep, 2:1 compared to a gentler change 10:1 between the break of slope and the front property boundary. This gentler slope plus the vegetative cover results in a lower velocity of runoff flow, fewer or no channelized runoff and minimized sedimentation on the front portion of the property (See Maps 3 and 4.).

**Condition 1.**

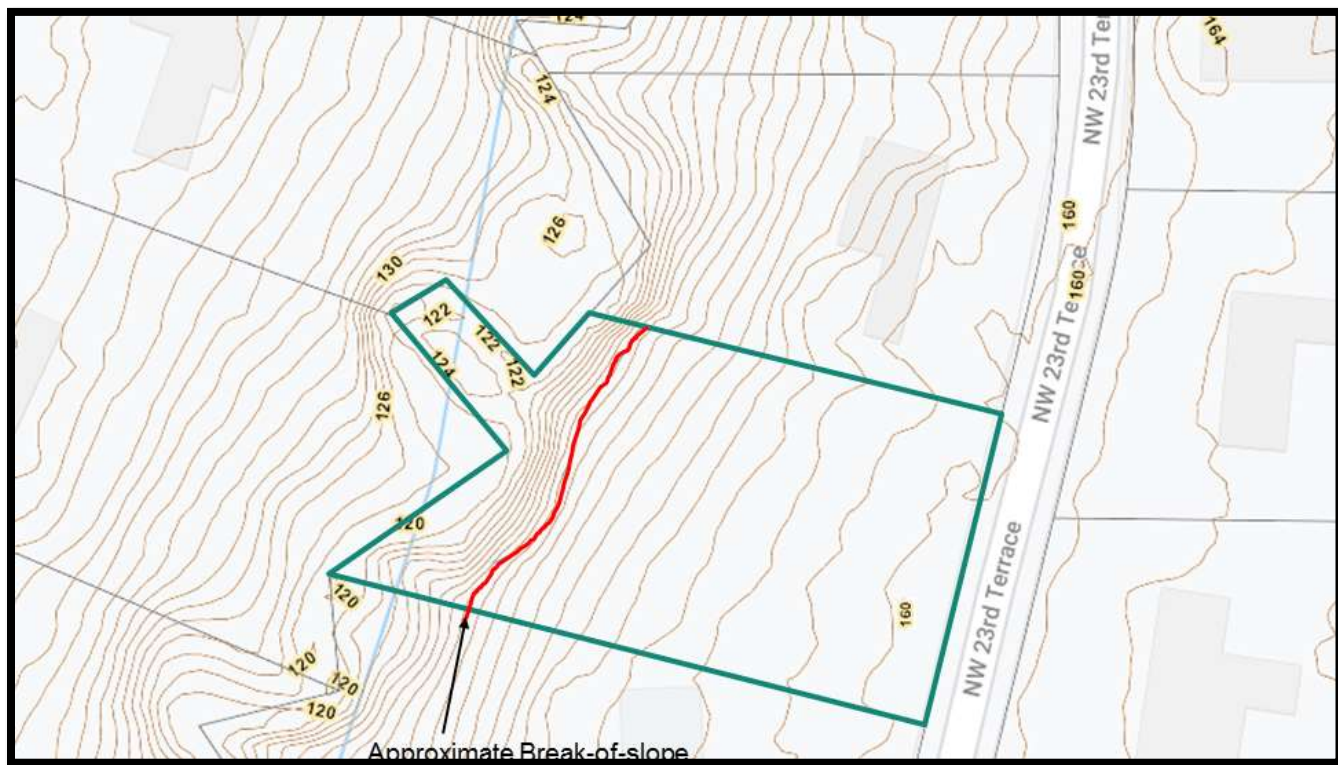
*Except for the removal of trees necessary to obtain reasonable development, existing vegetation outside the footprint of buildings and necessary pervious areas shall be maintained. Future tree removal shall be regulated in accordance with Sec. 30-8.7.F.*

- This requirement is not applicable to residential single-family lots.

**3. There will be no net increase in the rate of runoff from the site;**

This requirement is not applicable to residential single-family lots.

**Map 4: Site Topography Relative to the Break of Slope**



**4. There is no threat to the stability of the creek bank; and**

The existing topographic relief and vegetative cover will be maintained to an extent that would not impact the stability of the creek bank. No significant development structures are proposed within the 75-foot distance from the break of slope of the creek and associated wetlands.

**Condition 2.**

*The addition of additional structures beyond what is proposed with this application shall be subject to additional environmental review prior to permitting. Existing vegetation outside the footprint of buildings and necessary impervious areas shall be maintained. Future tree removal shall be regulated in accordance with Sec. 30-8.7.F.*

**5. There will be no placement of buildings, structures, impervious surfaces, or sod that would require the removal of vegetation integral to the creek's ecological value. All invasive, non-native plant species listed in Section 30-8.3 shall be removed prior to issuance of the certificate of occupancy. All plants listed on the Noxious Weed List, Section 5B-57.007, Florida Administrative Code shall be removed prior to issuance of the certificate of**

**occupancy. Native vegetation shall be installed and/or retained to protect surface water or wetland environmental features.**

No buildings, structures or impervious surfaces are proposed that would require removal of vegetation integral to the ecological value of the creek.

**Condition 3.**

*The applicant shall propose a plan for management of all invasive and non-native species at the time of application for a building permit. Initial treatment must be completed and reviewed by staff prior to obtaining a Certificate of Occupancy.*

**Septic Tank Placement Relative to the 150-foot Distance from Break of Slope**

Section 30-8.20. M. of the Land Development Code states that "... The installation of new septic tanks is prohibited within 150 feet of the landward extent of a regulated lake or wetland, or within 150 feet from the break in slope at the top of the bank of a regulated creek..." The Feather Wood subdivision is currently not served by City sewer facilities. The fourteen (14) improved lots are served by private septic tanks.

The proposed development of the subject property, the last unimproved lot, includes a septic tank which is located a distance of 105 feet from the break in slope of the bank of the adjacent regulated creek and associated wetlands and 165 feet from the creek channel. The outside limit of the drain field is approximately 155 feet from the break of slope of the creek and wetlands and 238 feet from the creek's channel. Although the Land Development Code prohibits septic tanks within 150 feet of the break of slope of the creek, there is a provision that authorizes the Development Review Board (DRB) to consider relief that would allow reasonable development of a single-family dwelling.

Sec. 30-8.22. of the Land Development Code states, the following:

".... *Special permits.* In order to allow the reasonable development of a single-family dwelling and customary accessory structures and driveways on platted lots regulated by the surface waters and wetlands sections of this article, the development review board may grant a modification from compliance with the minimum buffer requirements of these sections only to the extent necessary to accommodate such reasonable development. As part of the same proceedings, the board may also grant variances to the yard setbacks required by this chapter in order to facilitate compliance with these sections subject to a finding that such special permits will neither be injurious to adjacent property owners or the neighborhood nor detrimental to the public welfare. ..."

In considering the request, staff reviewed the proposed development and the request for a Special Permit in the context of the following criteria.

- 1. Minimum requirement for Special Permits. Special Permits may be granted by the Development Review Board for single-family lots located .... within 150 feet of the break in slope at the top of bank of a regulated creek for lots which are lawfully created before April 12, 2004. ..."**

The Feather Wood subdivision was approved in 1979 and therefore qualifies for consideration of a Special Permit subject to the listed criteria. The proposed septic tank is within the 150 feet of the break in slope of the regulated creek.

**2. The Development Review Board shall determine, what constitutes reasonable development of a single-family lot, accessory structures and drives.**

- a. The two subdivisions, Feather Wood, Unit 2 and Feather Wood, lay on either side of the creek contain a total of twenty-eight (28) lots. Twenty-seven of those lots are improved with single-family dwellings on individual septic tanks. The subject property is the last unimproved lot seeking to construct a single-family dwelling within the development standards of the zoning district. Based on the historical improvements and existence of those lots, it is reasonable to consider a modification to the environmental regulations to allow a comparable development.
- b. Dwelling units within the Feather Wood subdivision range in size from 2,886 to 4,070 square feet and the average size of units is approximately 3,770 square feet. The proposed unit is approximately 3,900 square feet. The design does not include a swimming pool, tennis court, racquetball court or similar recreational structure, or other accessory uses that are not customary on single-family lots.

**3. The Development Review Board shall consider features of the site, including its topography, the width of the creek bed, and the presence or absence of vegetation natural to the creek, lake or wetland, which indicate that a special permit would or would not further the goals of these sections.**

The subject property is approximately 1.11 acres, which is more than adequate to accommodate the proposed 3,990 square foot single-family dwelling and accessory structures. The depth of the lot is more than 225 feet and the creek runs along the rear property boundary. This places the building and the septic tank a significant distance from the creek and wetlands and the break of slope, thus minimizing potential impacts. The creek has a fairly wide channel and is surrounded by wetlands, with steep banks rising to the break of slope which is approximately 75 feet and 110 feet from the proposed building and septic tank respectively. The potential to negatively impact the creek and its banks is therefore minimal. Vegetation within the creek channel and along the banks will not be removed. Staff has determined that a special permit would not diminish the goals and intent of the environmental regulations (See Map 3.)

**4. The Development Review board shall consider presence of trees eight inches or greater in diameter at a point four and one-half feet above the ground level that can only be preserved if a special permit is granted.**

The proposed improvement is intended to maintain the regulated trees outside the building footprint. Natural vegetation and native species between the break of slope and the creek shall be preserved. Tree proposed to be removed are primarily in the proposed building footprint, but the development remains subject to tree protection and mitigation pertaining to significant heritage and champion trees existing on the site. Based on the site visit conducted in March 2020, staff has determined that the trees remaining within the buildable area are of lower quality species, such as slash pine, sweetgum, and water oak. Vegetation in this area has been previously cleared and the remaining tree cover is sparse, with very little mid-story or understory. Beyond the buildable area, within the wetland buffer, there are larger trees of higher quality species such as pignut hickory; these trees must be protected pursuant to buffer protection requirements.

**6. The development review board shall consider staff reports as needed in reaching its decision. In granting a special permit the board shall establish measures to ensure that the goals of these sections are substantially met, in particular maintaining natural vegetation where feasible, preventing sedimentation loading to the creek, lake or wetland, maintaining the stability of the creek or lake bank, and preventing the degradation of the water quality of the creek, lake or wetland. To achieve these aims, the Development Review Board shall attach such reasonable**



**conditions and safeguards, such as construction control techniques and other mitigative measures, as it deems necessary.**

In arriving at a decision, the board must ensure that the goals of the environmental standards are met and is authorized to impose reasonable conditions as deemed necessary.

<b>LIST OF ATTACHMENTS:</b>
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**Attachment A: Application and Supporting Documents.**

**Attachment B: Some Relevant Land Development Code Reference**



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**Petition DB-20-49 SPT**

**June 30, 2020**

**Attachment A: Application and Supporting Documents**

**Attachment B: Comprehensive Plan and Land Development Code References**

**PETITION TO THE DEVELOPMENT REVIEW BOARD**  
**Department of Sustainable Development – Planning**

<b>OFFICE USE ONLY</b>	
Petition No. _____	Fee: \$ _____
Hearing Date _____	EZ Fee: \$ _____
Account No. 001-660-6680- 3401 [ ]	
Account No. 001-660-6680-1124 (Enterprise Zone) [ ] Account	
No. 001-660-6680-1125 (Enterprise Zone Credit) [ ]	

**CHECK ONE.**

☐ Variance

☐ Special Exception

☒ Special Permit

*Please note that a pre-application conference is required before submitting this application*

<b>Owner(s) of Record (please print)</b>		<b>Agent Authorized to Act on Owner Behalf</b>	
Name: Gavin J.P Naylor & Veronika C. Stetter		Name: Jan Frentzen	
Address: 9225 SW 1st Pl Gainesville FL 32607		Address: 6812 NW 85th Terr Gainesville, FL 32653	
E-mail Address: gjpnaylor@gmail.com		E-mail Address: jfrentzn@bellsouth.net	
Phone: 843 214 9836		Phone: 352 219 1215	
Fax: n/a		Fax: n/a	
<b>PROPERTY INFORMATION:</b>			
Street address: 2522 NW 23rd Terr, Gainesville FL 32605			
Tax parcel no(s): 06090-005-000			
Legal description (may be attached) FEATHER WOOD PB J-18 LOT 5 OR 4513/0685			
Existing Zoning: PD		Lot size: 1 11 acres	
Present use: 00000 VACANT		Proposed use: 00100 SINGLE FAMILY RESIDENCE	
Historic District or Landmark?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Present structures (type) and improvements upon the land. none			
<b>SURROUNDING PROPERTY INFORMATION</b> (List all uses surrounding the subject property under "Existing use." Staff is available to supply zoning and land use information.)			
	<b>Zoning</b>	<b>Land Use</b>	<b>Existing Use</b>
North	PD	0100 SFR	00100 SINGLE FAMILY RESIDENCE
South	PD	0100 SFR	00100 SINGLE FAMILY RESIDENCE
East	PD	0100 SFR	00100 SINGLE FAMILY RESIDENCE
West	PD	0100 SFR	00100 SINGLE FAMILY RESIDENCE

**Certified Cashier's Receipt:**

### SIGNATURE PAGE

1. (a) I hereby attest to the fact that the above supplied parcel number(s) and legal description(s) is (are) the true and proper identification of the area of this petition.  
(b) I authorize staff from the Planning and Development Services Department to enter onto the property in question during regular city business hours in order to take photos which will be placed in the permanent file.
2. I/We understand that this petition becomes a part of the permanent records of the Board of Adjustment. I/We hereby certify that the above statements and the statements or showings made in any document or plans submitted herewith are true and correct to the best of my/our knowledge.

Property Owner Signature:

Gavin Naylor

Date: 17 March, 2020

GAVIN NAYLOR

Veronika Stetter  
VERONIKA STETTER

17 March, 2020

STATE OF FLORIDA

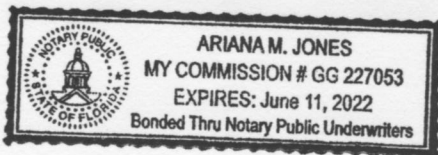
COUNTY OF Alachua

Sworn to and subscribed before me this 17th day of March 2020.

by (Name) Gavin J. P. Naylor & Veronika C. Stetter.

Ariana M. Jones  
Signature - Notary Public

Personally Known ☐ OR Produced Identification ☒ (Type FLDL N460-290-60-369-0  
FLDL S336-863-69-667-0)





Jan Frentzen

Frentzen Construction, Inc.

6812 nw 85th terrace, gainesville, florida 32653

352 . 378 . 9364 voice      352 . 378 . 9364 fax

3/20/2020

To: Development Review Board  
Re: Lot 5 Feather Wood  
2522 NW 23rd Terr  
Gainesville, FL

As the agent for Veronika Stetter and Gavin Naylor, owners of Lot 5 Feather Wood subdivision, we request an exception to Sec 30-8.20, para. M

- M. installation of new septic tanks is prohibited within 150 feet of the landward extent of a regulated lake or wetland, or within 150 feet from the break in slope at the top of the bank of a regulated creek.

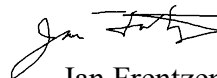
to allow the construction of a new septic system within 75 feet of the break in slope.

The owners intend to build a new home on this vacant lot and currently there are no sewer system connections available for Feather Wood subdivision. All adjacent and immediate neighborhood lots are on septic systems. Due to the slope of the lot, it is impractical to place the septic system elsewhere, and a 75 foot distance from the break in slope is allowable under state regulations which the County Health Department enforces.

Attached are:

1. Site plan with key - this drawing is approximate and conceptual. A survey will be completed before construction.
2. Survey - completed earlier.

Sincerely,



Jan Frentzen, president  
Frentzen Construction, Inc.

5/8/20

To: Development Review Board  
Re: Lot 5 Feather Wood  
2522 NW 23rd Terr  
Gainesville, Fl

As the agent for Veronika Stetter and Gavin Naylor, owners of the above referenced lot, we request an exception to Sec 30-8.20m para. M:

M. installation of new septic tanks is prohibited within 150 feet of the landward extent of a regulated lake or wetland, or within 150 feet from the break in slope at the top of the bank of a regulated creek.

to allow the placement of a septic tank for a new residence between the 75 foot and 150 foot buffers from the marked break in slope adjacent to a regulated creek. Liquid effluent would be pumped to the septic drain field which would be outside the 150 foot line.

The owners intend to build a new home on this vacant lot and currently there are no sewer system connections available for Feather Wood subdivision, and all homes in this neighborhood are on septic systems. We think this is a reasonable request for the following reasons.

1. A properly functioning septic tank will not leak into adjacent soils and in this system liquid effluent will be pumped to the drain field outside of the 150 foot line.

2. The county and the state allow septic systems within 75 feet of wetlands.

3. The 150 foot line was adopted by the city in 2012, which means all other homes in this subdivision were not made to follow the rule, and almost certainly many are not in compliance with it.

4. GRU has a proposed plan for a sewer system for the neighborhood, which if completed will mean the proposed septic system will be of relatively short duration.

5. The owners cannot meet this requirement without radically redesigning their home in ways highly constrained by the 150 foot line and building setback lines and by moving the house close to the street, which is inconsistent with both the neighborhood practice and their goals when they purchased the lot.

Attached are:

1. Site plan - proposed
2. Survey showing break in slope
3. City of Gainesville site map with contours, neighboring houses and proposed site plan
4. GRU proposed sewer system
5. This letter

Sincerely,

Jan Frentzen, president



## Fox Grove & Featherwood

## Potential Low Pressure Sewer System

 Potential Discharge MH

Sewer

● SManhole

 Lift Station

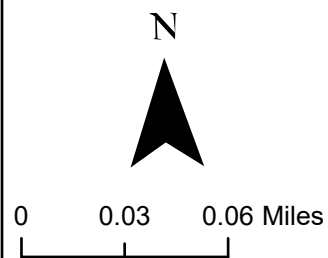
— SGravityMain

— SLateralLine

Parcels w/o Sewer

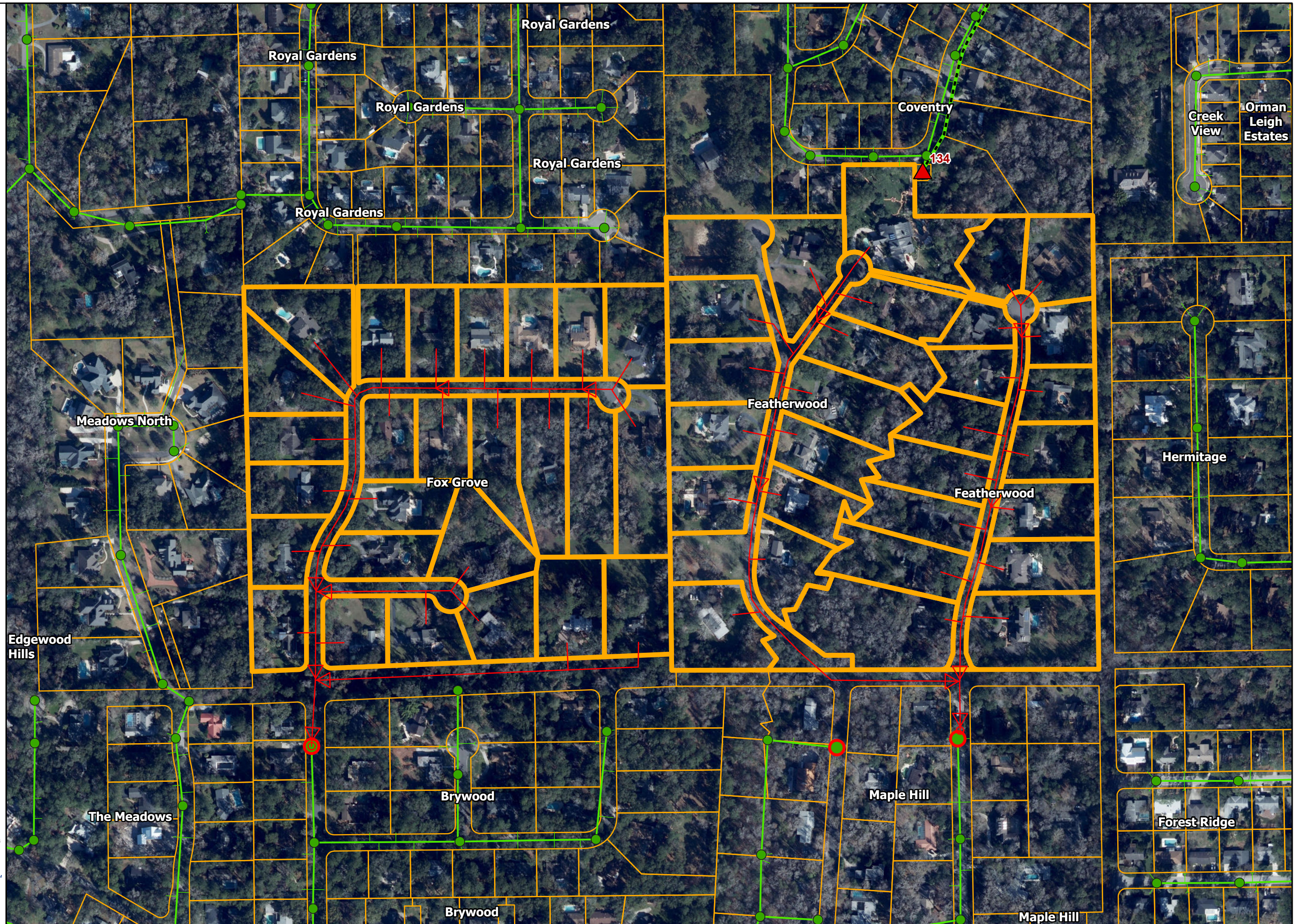
 Parcels

— LPS Lines



Disclaimer:

The data depicted on this map has been prepared exclusively for the internal use of The City of Gainesville, Gainesville Regional Utilities, which assumes no liability for errors, or omissions in the information on the map. No other person may rely upon its accuracy for any purpose, nor should any person use the information displayed in lieu of strict compliance with applicable provisions of Chapter 556, Florida Statutes. Further information may be obtained by contacting the Water/Wastewater Engineering Department at (352) 334-3400 ext. 1653.



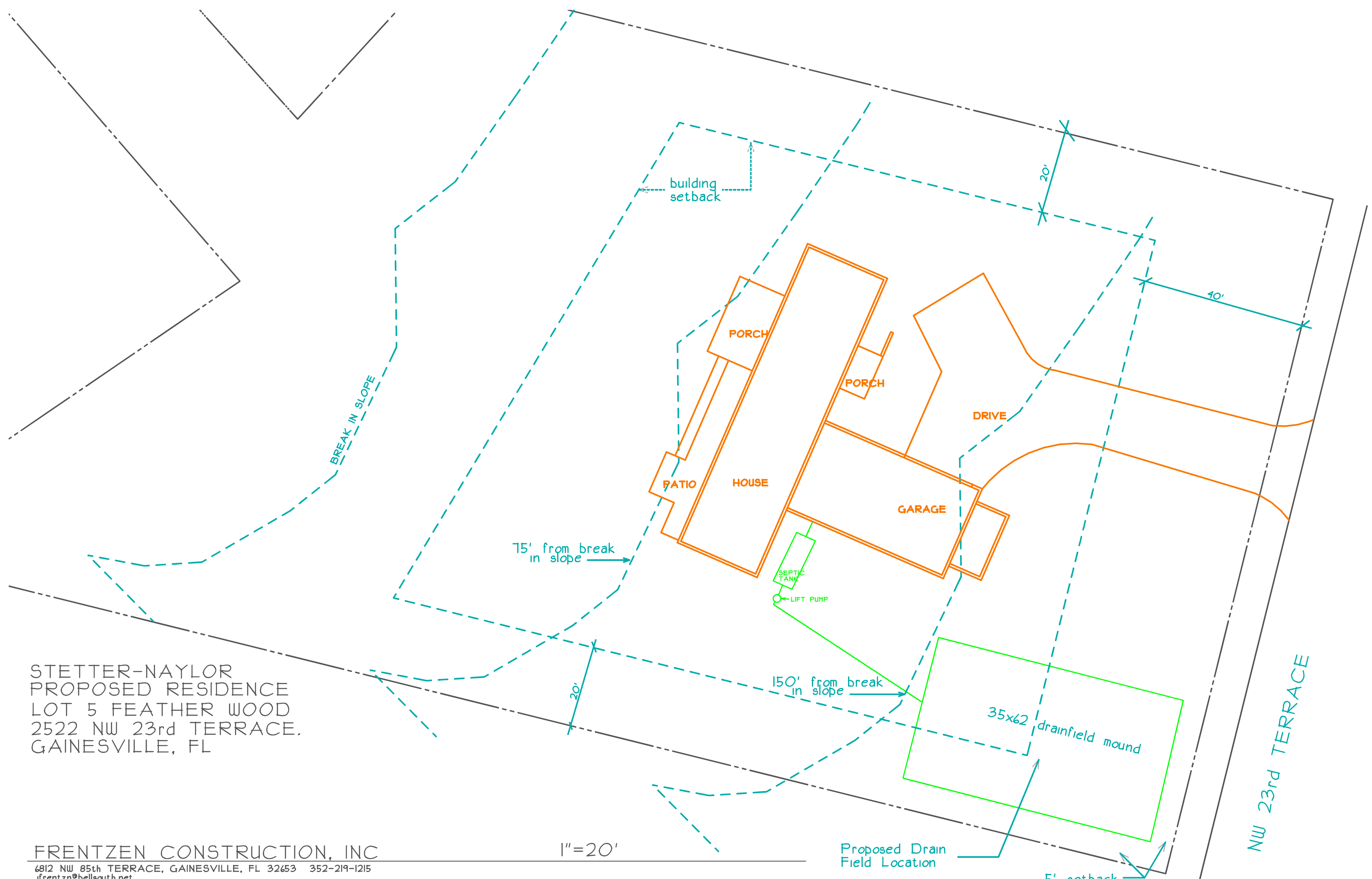
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## IMPROVEMENT LEGEND

- Ⓐ Milled Asphalt Drive
- Ⓑ Concrete Apron
- Ⓒ Brick Paver Walkway
- Ⓓ 18"x18" Patio Stone Walkway
- Ⓔ Brick Paver Terrace (w/concrete borders)
- Ⓕ Future Bridge (30' span) and Observation Deck
- Ⓖ Future Pool (15'x30')
- Ⓗ Future Deck (8'x 38')
- Ⓙ In-Ground Electrical Services to Meter & single main disc. sw.
- Ⓢ Power Pole/Electrical Transformer (verify location)
- Ⓚ In-Ground French Drain (run to daylight)
- Ⓛ Dry Creek Bed
- Ⓜ 1" Cold Water Service (from Municipal Supply/Meter)
- Ⓝ 1,250 Gallon Septic Tank and Drain Field

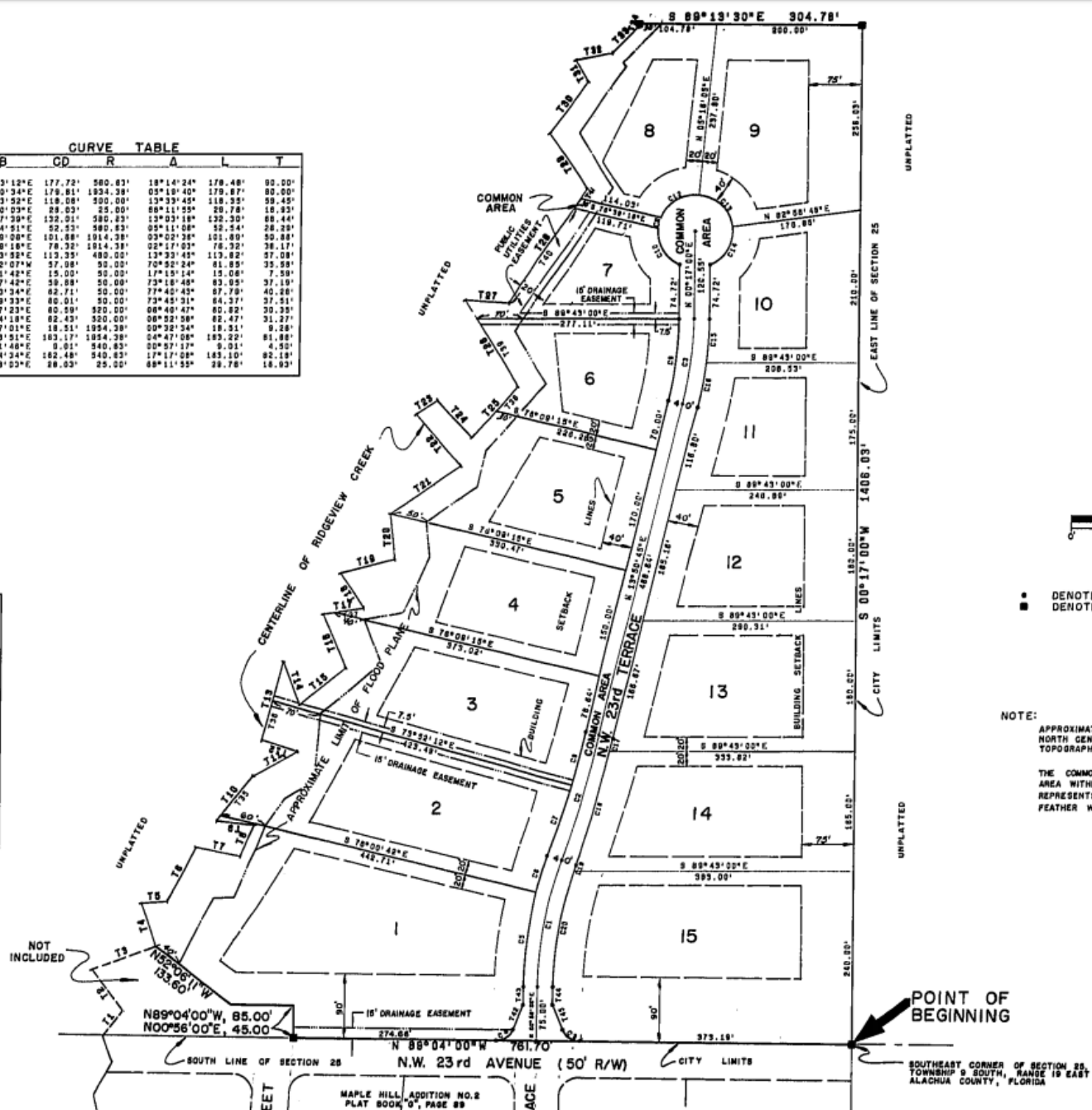




STETTER-NAYLOR  
PROPOSED RESIDENCE  
LOT 5 FEATHER WOOD  
2522 NW 23rd TERRACE.  
GAINESVILLE, FL

NO.	CB	CD	R	A	L	T
1	H 10°03'12"E	177.72'	580.83'	18°14'24"	178.48'	93.00'
2	H 18°30'34"E	179.81'	1934.38'	03°18'40"	179.87'	93.00'
3	H 07°03'52"E	118.08'	590.00'	13°33'45"	118.39'	59.45'
4	H 58°50'39"E	28.03'	25.00'	88°11'55"	28.78'	16.93'
5	H 07°27'59"E	132.01'	580.83'	13°03'18"	132.30'	88.44'
6	H 18°34'51"E	92.53'	580.83'	05°11'08"	92.54'	26.29'
7	H 17°38'08"E	101.88'	1014.38'	03°02'38"	101.88'	50.88'
8	H 14°58'18"E	78.32'	1014.38'	02°57'03"	78.32'	38.17'
9	H 07°03'52"E	113.35'	480.00'	13°33'45"	113.82'	57.08'
10	H 20°42'07"W	57.98'	50.00'	70°32'24"	61.95'	35.58'
11	H 13°21'42"E	15.00'	50.00'	17°15'14"	15.08'	7.50'
12	H 58°37'42"E	59.88'	50.00'	73°18'48"	83.95'	37.19'
13	D 45°53'34"E	82.71'	50.00'	77°45'45"	87.79'	40.26'
14	H 28°48'33"E	86.51'	30.00'	73°45'31"	84.37'	37.51'
15	H 03°37'23"E	80.59'	520.00'	08°40'47"	80.82'	30.35'
16	H 10°24'18"E	82.43'	520.00'	08°52'58"	82.47'	31.27'
17	H 14°07'01"E	18.51'	1054.38'	08°32'54"	18.51'	9.28'
18	H 18°48'51"E	103.17'	1054.38'	04°47'08"	103.22'	61.88'
19	H 18°41'48"E	9.01'	540.83'	20°57'17"	9.01'	4.50'
20	H 03°34'34"E	182.48'	540.83'	17°17'08"	183.10'	82.19'
21	S 54°58'23"E	28.03'	25.00'	88°11'55"	28.78'	16.93'

NO.	B	D
1	H 37°58'00"E	45.92'
2	H 38°31'07"W	70.52'
3	H 89°00'09"E	92.00'
4	H 17°42'12"W	81.74'
5	H 88°06'13"E	34.40'
6	H 28°31'37"E	94.88'
7	S 78°32'27"E	81.50'
8	H 23°33'38"E	48.08'
9	H 83°11'07"W	50.21'
10	H 37°58'50"E	78.90'
11	H 61°50'00"E	68.90'
12	H 72°00'00"E	52.95'
13	H 15°38'10"E	112.07'
14	S 20°58'10"E	95.77'
15	H 53°08'09"E	78.85'
16	H 21°52'25"W	90.18'
17	H 81°50'58"E	55.73'
18	H 14°08'52"W	59.45'
19	H 78°08'28"E	77.55'
20	H 05°18'59"W	82.80'
21	H 05°45'34"E	115.15'
22	H 40°40'20"W	94.80'
23	H 58°07'05"E	35.23'
24	H 40°11'59"E	80.15'
25	H 41°44'48"E	95.41'
26	H 31°08'43"W	139.84'
27	H 82°50'08"E	58.18'
28	H 34°07'04"E	109.21'
29	H 33°43'28"W	91.94'
30	H 50°18'54"E	88.00'
31	H 31°25'14"W	94.78'
32	H 78°23'10"E	94.10'
33	H 43°10'28"E	48.02'
34	H 18°05'20"E	4.07'
35	H 37°58'50"E	89.89'
36	H 15°58'10"E	55.75'
37	H 81°50'58"E	41.38'
38	H 41°44'48"E	49.18'
39	H 31°08'43"W	109.80'
40	H 34°07'04"E	118.78'
41	H 34°07'04"E	18.38'
42	H 28°44'05"E	58.89'
43	H 03°58'00"E	88.35'
44	H 03°58'00"E	25.00'
45	H 20°58'05"W	58.93'



- DENOTES PERMANENT CONTROL POINT
- DENOTES PERMANENT REFERENCE MARKER

NOTE:  
APPROXIMATE LIMIT OF FLOOD PLANE DETERMINED FROM  
NORTH CENTRAL FLORIDA REGIONAL PLANNING COUNCIL  
TOPOGRAPHIC MAPS DATED JUNE 1974.

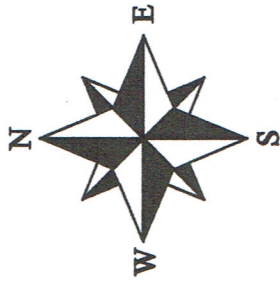
THE COMMON AREA AS SHOWN ON THIS PLAT AND THE COMMON  
AREA WITHIN THE BOUNDARY OF PHASE II OF FEATHER WOOD  
REPRESENTS MORE THAN 6% OF THE TOTAL ACREAGE OF  
FEATHER WOOD AND FEATHER WOOD UNIT NO. 2.

POINT OF  
BEGINNING

SOUTHEAST CORNER OF SECTION 25,  
TOWNSHIP 9 SOUTH, RANGE 19 EAST  
ALACHUA COUNTY, FLORIDA



BOUNDARY SURVEY



THIS SURVEY IS NOT  
TRANSFERABLE FOR USAGE TO  
ANY OTHER PERSON, LENDING  
INSTITUTION OR ENTITY

LEGEND

- O.R. OFFICIAL RECORDS
- CONC. CONCRETE
- COV. COVERED
- F.M. FIELD MEASURED
- IRF IRON REBAR FOUND
- IPF IRON PIPE FOUND
- IRS IRON REBAR SET
- CMF CONCRETE MONUMENT FOUND
- W.M. WATER METER
- C.B. CABLE BOX
- E.B. ELECTRIC BOX
- ID IDENTIFICATION
- BSL BUILDING SETBACK LINE
- PUE PUBLIC UTILITIES EASEMENT
- CL CENTERLINE
- PL POWERLINE

Philip A. Pistorino, P.A.

7400 N.W. 47th Court, Gainesville Florida 32606 - (352) 372-0946

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL  
SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY PANEL #

BEARINGS BASED ON RECORD PLAT EAST LINE LOT 5

UNDERGROUND IMPROVEMENTS IF ANY NOT LOCATED

DESCRIPTION FURNISHED BY CLIENT

SUBJECT PROPERTY WITHIN FLOOD PRONE AREA "A" AND "X"

THIS SURVEY IS NOT TRANSFERABLE FOR USAGE TO ANY OTHER  
PERSON, LENDING INSTITUTION OR ENTITY

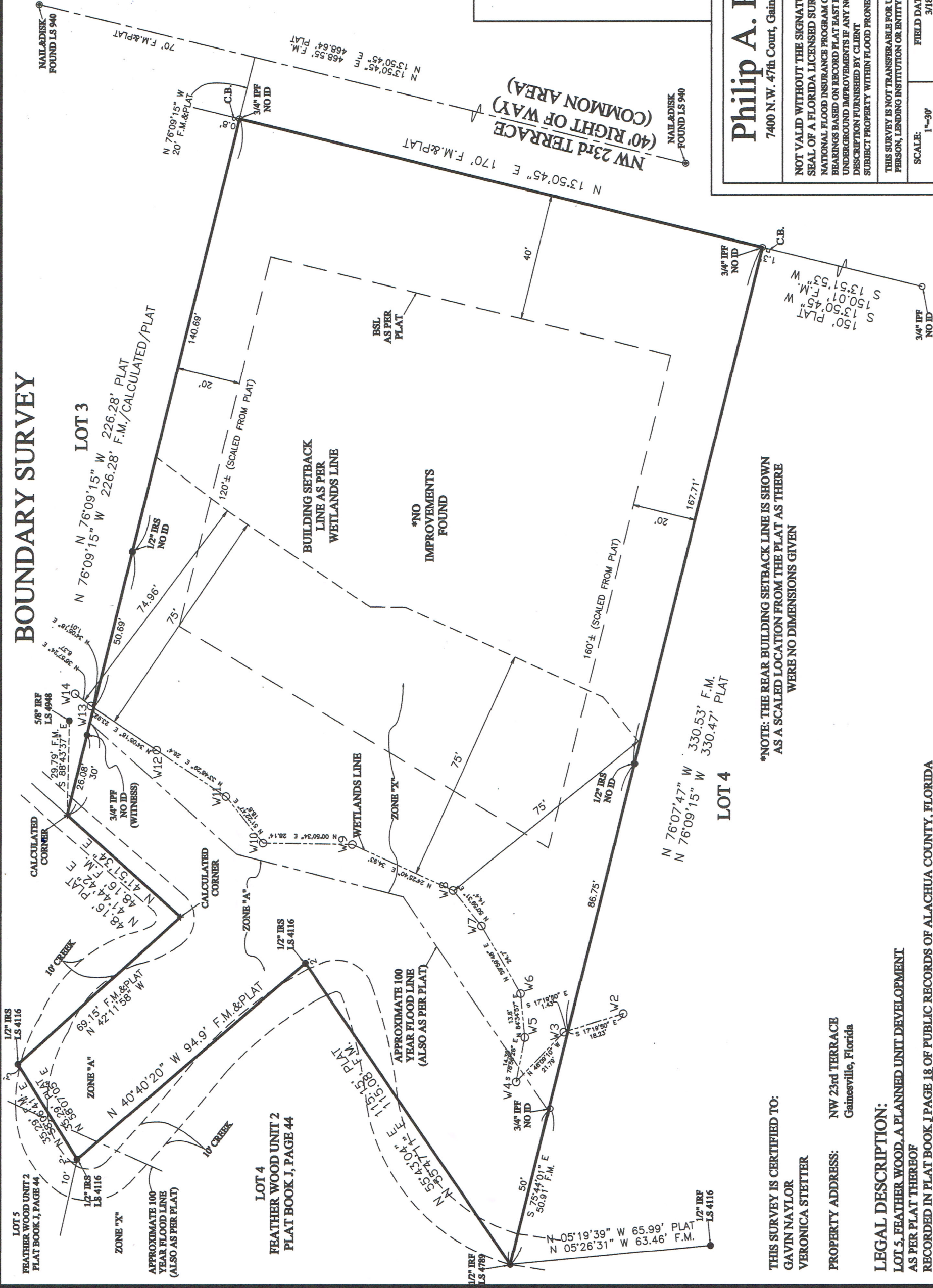
SCALE: 1"=30'

FIELD DATE: 3/18/2020

DRAWN BY:

CHARLES PISTORINO

PHILIP A. PISTORINO  
LS NO. 4116 FLORIDA



\*NOTE: THE REAR BUILDING SETBACK LINE IS SHOWN  
AS A SCALED LOCATION FROM THE PLAT AS THERE  
WERE NO DIMENSIONS GIVEN

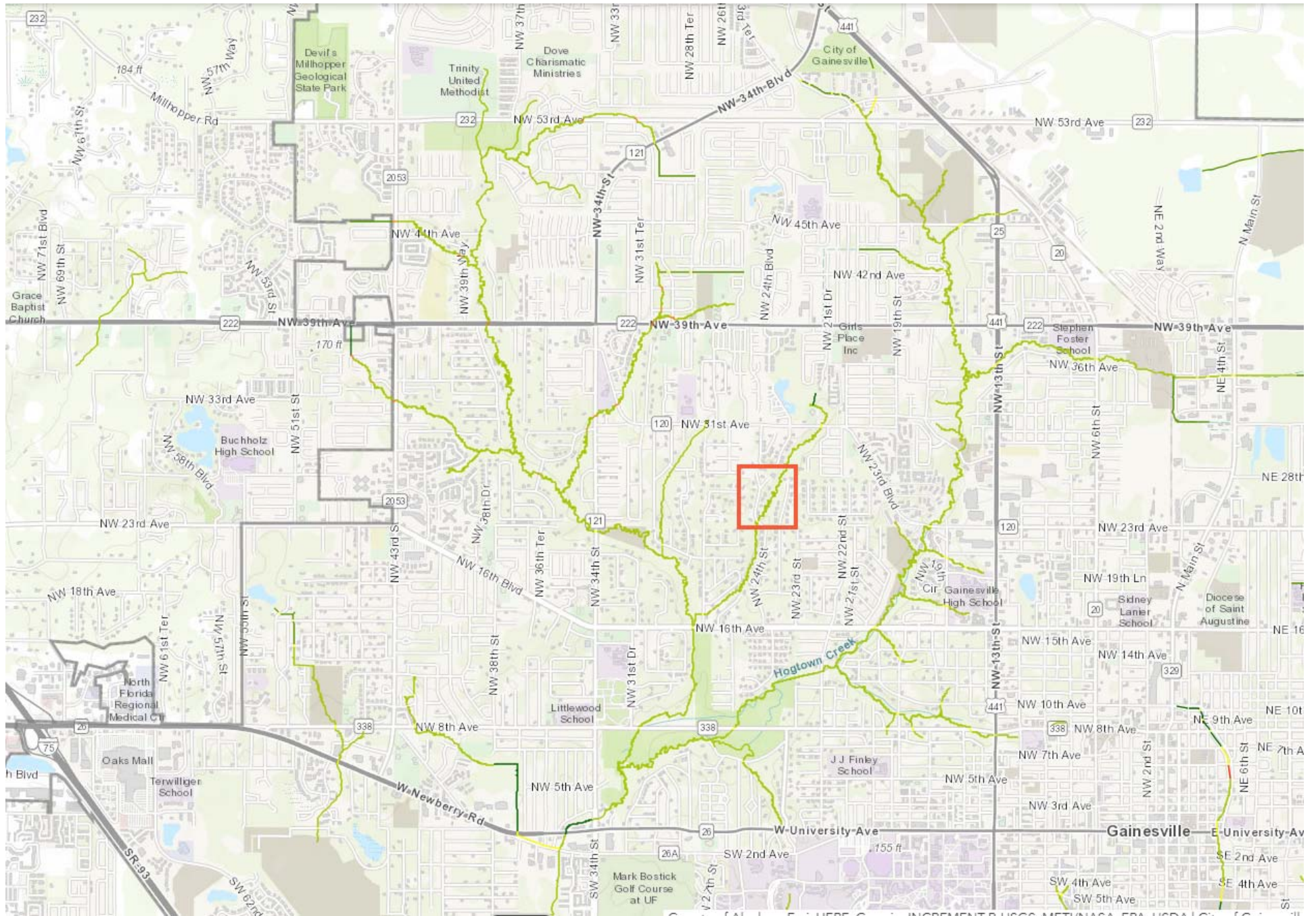
THIS SURVEY IS CERTIFIED TO:  
GAVIN NAYLOR  
VERONICA STETTER

PROPERTY ADDRESS: NW 23rd TERRACE  
Gainesville, Florida

LEGAL DESCRIPTION:

LOT 5, FEATHER WOOD, A PLANNED UNIT DEVELOPMENT  
AS PER PLAT THEREOF  
RECORDED IN PLAT BOOK J PAGE 18 OF PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA



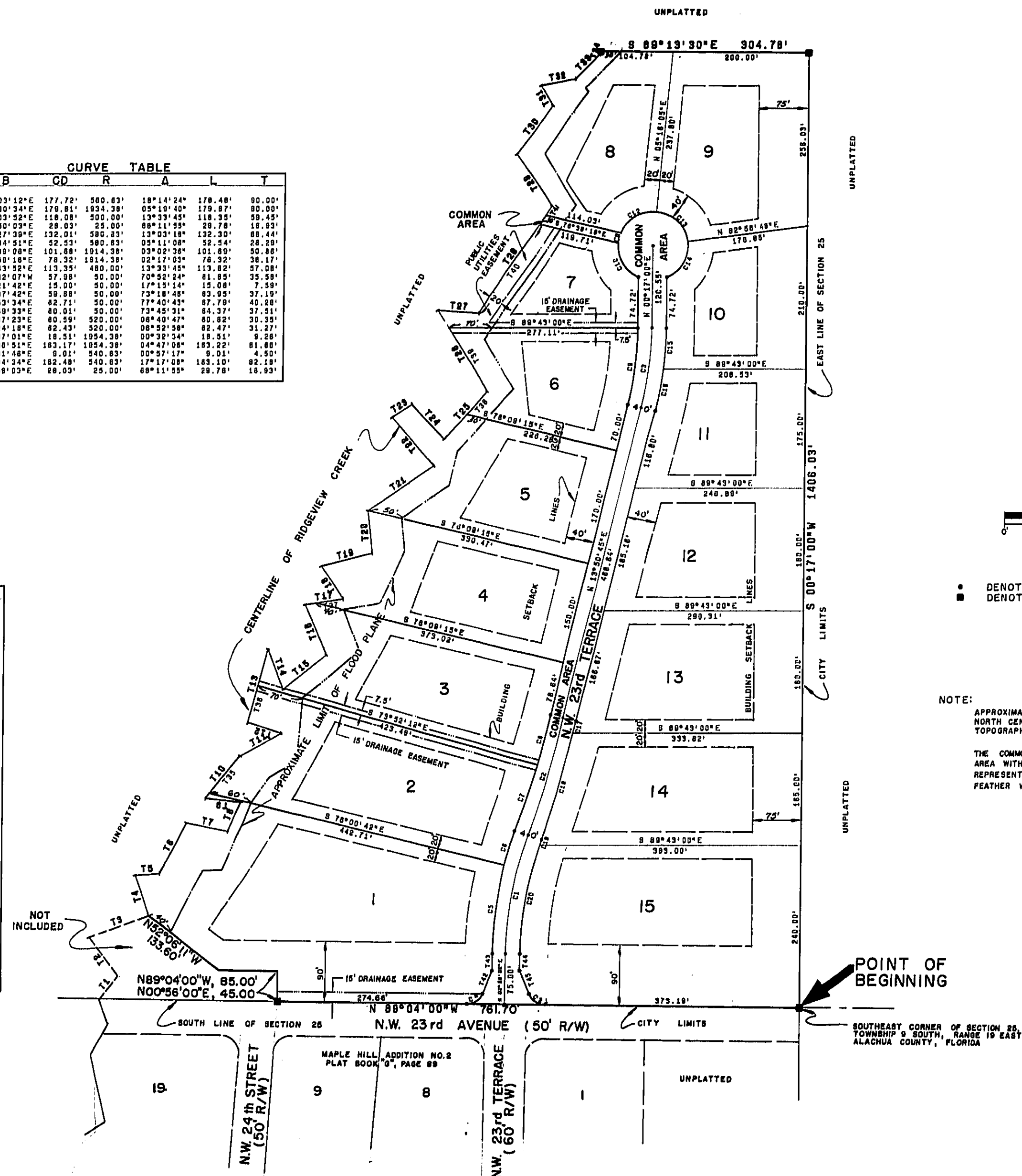






A PLANNED UNIT DEVELOPMENT  
IN SECTION 25, TOWNSHIP 9 SOUTH, RANGE 19 EAST  
ALACHUA COUNTY, FLORIDA

TANGENT		TABLE	
NO.	B	D	
1	N 37°56'00"E	43.82	
2	N 36°31'57"W	70.52	
3	N 36°31'57"W	70.52	
4	N 36°31'57"W	70.52	
5	N 17°42'12"E	14.40	
6	S 89°00'15"E	54.40	
7	S 89°00'15"E	54.40	
8	S 78°02'47"E	21.51	
9	S 22°33'58"E	48.89	
10	S 22°33'58"E	48.89	
11	S 22°33'58"E	48.89	
12	S 22°33'58"E	48.89	
13	S 22°33'58"E	48.89	
14	S 22°33'58"E	48.89	
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48	S 22°33'58"E	48.89	
49	S 22°33'58"E	48.89	
50	S 22°33'58"E	48.89	



H. Burton James CLERK  
DEPUTY CLERK

THE COMMON AREA AS SHOWN ON THIS PLAT AND THE COMMON AREA WITHIN THE BOUNDARY OF PHASE II OF FEATHER WOOD REPRESENTS MORE THAN 6% OF THE TOTAL ACREAGE OF FEATHER WOOD AND FEATHER WOOD UNIT NO. 2.



**City of Gainesville  
Department of Sustainable Development  
Planning Division**

PO Box 490, Station 11  
Gainesville, FL 32627-0490  
306 NE 6<sup>th</sup> Avenue  
P: (352) 334-5022  
F: (352) 334-2648

**Petition DB-20-49 SPT**

**June 30, 2020**

**Attachment A: Application and Supporting Documents**

**Attachment B: Comprehensive Plan and Land Development Code References**

Sec. 30-8.1. - Purpose.

- A. *Purpose.* This article is established for the purpose of protecting the immediate and long-term public health, safety and general welfare by preserving, enhancing, conserving or restoring the natural environment and cultural resources. The intent with respect to the urban forest is to establish and maintain a sustainable tree canopy in which the healthiest and strongest existing trees are preserved during development, and new high quality shade trees are planted. Development and other activities within the city shall be in accordance with this purpose.
- B. *Objectives.* The provisions of this article are intended:
1. To conserve energy through the cooling and shading effects of trees;
  2. To conserve water through the preservation of existing natural vegetation, the use of xeriscape techniques, and other water-conserving irrigation and landscape practices;
  3. To mitigate nuisances such as noise, glare, heat, air pollution and stormwater runoff;
  4. To preserve, enhance or restore the natural environment through the protection and establishment of native vegetation and existing natural systems for the enjoyment of present and future populations;
  5. To promote a linked open space system throughout the city and county;
  6. To preserve, enhance or restore the unique aesthetic character of the community;
  7. To mitigate, through buffering, potentially adverse impacts between land uses of differing type and intensity, and to ensure sufficient landscaping within areas designated for multiple-family uses and mixed uses;
  8. To assist in controlling vehicular and pedestrian movement to and within developed sites by:
    - a. Clearly delineating the boundaries of vehicular use areas, in such a manner that movement, noise and glare do not adversely impact activity in adjoining areas;
    - b. Establishing the points of ingress and egress so as to eliminate confusion and to control physical access to the site;
    - c. Establishing the direction of internal vehicular and pedestrian circulation;
  9. To prevent personal injury, loss of life and excessive property damage due to flooding;
  10. To prevent the installation of structures which reduce the flood channel capacity and increase flood heights, the installation of which may cause excessive property damage;
  11. To reduce public expenditures for emergency operations, evacuations and restorations;
  12. To prevent damage to industries, transportation and utility systems;
  13. To restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
  14. To require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
  15. To minimize the alteration of natural floodplains, creek channels and natural protective barriers which are involved in the accommodation of floodwaters;
  16. To minimize or prohibit filling, grading, dredging and other development which increases erosion, sedimentation or flood damage;
  17. To prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands;
  18. To protect and enhance property values through regulation of the natural resources in the city;



19. To ensure that potential home buyers are notified that property is in a flood area;
20. To protect wetlands as areas for the natural storage of surface waters, and their function as a means to reduce pollution;
21. To protect and restore the quality of groundwater and surface water through on-site treatment of stormwater runoff;
22. To control the rate and quantity of stormwater discharging from any developed site;
23. To protect groundwater levels;
24. To prevent the breeding of mosquitoes;
25. To protect the diverse plant and animal communities found in association with creeks, lakes, uplands, floodplains, nature parks and wetlands;
26. To prevent soil erosion and sedimentation loadings to creeks, lakes and wetlands;
27. To maintain the stability of creek and lake banks;
28. To prevent adverse impacts to the water quality of creeks, lakes, wetlands, floodplains, groundwater and uplands;
29. To protect municipal drinking water quality;
30. To enhance the aesthetic and tree canopy qualities of significant entryway streets in order to convey the image of the city as "a city in a forest";
31. To protect or restore significant entryway streets in order to promote transportation safety and to discourage blight;
32. To protect the environmental, education and passive recreation functions of public parks and open spaces from nearby development, and, in some instances, to protect nearby development from such public properties;
33. To protect public park wildlife, vegetation and park uses from potential adverse impacts by nearby land uses. Such impacts can include stormwater pollution, pesticides, noise disturbances, visual unsightliness and light pollution;
34. To encourage development and preservation of a network of greenway transportation corridors throughout the city and county;
35. To provide safe, convenient, scenic, historic and nonmotorized transportation linkages between land uses;
36. To provide wildlife corridors, and other forms of environmental conservation and environmental education;
37. To provide for recreation and access to recreation;
38. To provide greenway buffering to protect environmental features and neighborhoods from nearby land uses;
39. To preserve biological diversity and viable populations of special protection species dependent on upland, transitional and wetland ecological communities;
40. To ensure adequate, safe, economic, reliable and environmentally sound water and wastewater utility services for the public;
41. To promote economic development in a manner that will enhance the quality of life;
42. To diminish the severity and frequency of southern pine beetle outbreaks in Gainesville by reducing the density of loblolly pines in urban areas;
43. To preserve high quality heritage trees, especially where they occur within 20 feet of the public right-of-way; and

44. To favor replanting with native species of high quality shade trees, including requiring such trees to be planted in locations that will reintroduce seed sources to adjacent natural communities.

#### DIVISION 4. - SURFACE WATERS AND WETLANDS

##### Sec. 30-8.17. - Regulated surface waters and wetlands.

All regulated surface waters and wetlands that are located in whole or in part within city limits are regulated by this article. Regulated surface waters and wetlands are as follows:

- A. Surface waters delineated pursuant to Rule 62-340.600, F.A.C., as may be amended or renumbered from time to time.
- B. Wetlands delineated pursuant to Rule 62-340.300, F.A.C., as may be amended or renumbered from time to time.

##### Sec. 30-8.18. - Exemptions.

- A. The provisions of the surface waters and wetlands sections of this article shall not apply to:
  - 1. Unless otherwise provided herein, any construction, development or use initiated pursuant to any valid building permit or approved development plan issued or approved before April 12, 2004.
  - 2. Any public works or utilities projects initiated by the city or by a property owner acting with the authorization of the city and state agencies (the state department of environmental protection or the appropriate water management district) to provide utility services or to maintain or modify existing public works or utilities infrastructure or to provide controlled stormwater discharge to the creek, lake or wetland. However, such projects shall not be exempt from first avoiding loss or degradation of wetland functions and habitats, and then minimizing unavoidable loss or degradation of wetland function and habitats. Such projects that cause unavoidable loss or degradation of wetland functions or habitats shall be clearly in the public interest.
  - 3. Repairs or replacement to the site structure(s) that do not increase the external dimensions of site impervious surface. When such development does increase said dimensions, the development up to the point at which dimensions increase will be exempt.
  - 4. Additions or accessory structures that do not add more than 100 square feet of impervious surface area cumulative from April 12, 2004, including any construction that does not require a building permit, and are at a distance greater than 50 feet from the landward extent of the wetland, or greater than 75 feet from the landward extent of the lake, or greater 35 feet from the break in slope at the top of the bank of a regulated creek. However, the placement of limerock surface, irrespective of size, shall comply with the provisions of these sections.
  - 5. Any construction or development initiated pursuant to the development plan of a planned development approved prior to April 12, 2004, if the development plan depicts the location of the buildings and structures on the site or if special consideration has been given to the issue of creek, lake or wetland protection as evidenced by specific limitations and/or restrictions having been placed on the lots or buildings during the approval process.
  - 6. Construction of public or private nature trails if the proposed plan is consistent with the intent of these sections and complies with each of the following restrictions:
    - a. There is no significant alteration of creek, lake or wetland drainage patterns or special protection species population reduction or habitat alteration due to the trail.
    - b. The natural grade within the buffer area is maintained to the maximum feasible extent.
    - c. The maximum width for private trails within 35 feet of the break in slope at the top of the bank of a regulated creek or within 50 feet of a wetland is 50 inches. The maximum width for private trails within 75 feet of a regulated lake is 50 inches. A private trail greater than 50 inches in width that is located between 35 feet and 150 feet from the break in slope at the top of the bank of a regulated creek, is presumed detrimental to the creek unless the

trail plan demonstrates otherwise. The width of public trails shall be set during site plan review.

- d. Materials used for the trails construction are limited to asphaltic concrete, concrete, wood, compacted earth, mulch, crushed shells or other materials that will not result in the creek receiving significant amounts of sediment or other adverse material harmful to the creek water quality. If materials other than asphaltic concrete or concrete are used, such materials shall be stabilized to prevent washouts or soil erosion.
  - e. Developers, their successors and assigns of private trails shall provide the city with a maintenance agreement which is acceptable to the city attorney and provide for maintenance and preservation of the trail to ensure there is no adverse impact to creek, lake or wetland vegetation, water quality, or creek or lake bank soils.
7. The reestablishment of native vegetation. When the reestablishment of native vegetation is for any property other than a single-family residential dwelling, a vegetative reestablishment plan shall be subject to the approval of the city manager or designee to ensure the appropriateness of the vegetation proposed and to ensure the incorporation of proper sediment control measures.
  8. All human-built impoundments, lakes, streams, ponds, and artificial or created wetlands, provided that development activities in these areas will not adversely impact natural or mitigation surface waters and wetlands. If these facilities were required as a mitigation project, they shall not be exempt from the provisions of these sections. If any surface waters or wetlands are part of a stormwater management facility approved by the city, the same functions shall be provided and any modifications shall be subject to approval by the public works department.
  9. Stormwater management facilities are allowed within wetland buffers provided that: The stormwater management facility will not adversely impact natural or mitigation surface waters and wetlands; the hydroperiod of the wetland will be maintained or restored; the stormwater management facility will have a maximum slope of 4:1; littoral zones will be established and maintained in all wet detention facilities; and that landscaping of stormwater management facilities will conform to section 30-8.3 and all other applicable requirements of chapter 30, and to the Design Manual. Stormwater management facilities are not exempt from the buffer requirements of section 30-8.20 for regulated creeks or lakes.
- B. All development, even if exempt or otherwise granted an exemption from any other provisions of these sections, shall incorporate either the city's general criteria for controlling erosion and sediment or equivalent practices.

Sec. 30-8.19. - Surface waters and wetlands review.

- A. *Scope of review.* The following types of applications shall be reviewed to determine whether the proposed development impacts regulated surface waters or wetlands, and if so, whether the proposed development complies with the Comprehensive Plan, the Land Development Code and other applicable law with respect to surface waters and wetlands:
1. Future land use map amendments (including large-scale and small-scale);
  2. Rezoning and amendments to zoning ordinances;
  3. Development plans (including minor plan, minor plan II, intermediate plan and major plan);
  4. Subdivisions/plats;
  5. Special use permits;
  6. Commercial tree removal permits; and
  7. Other development applications, including without limitation special exceptions and variances.



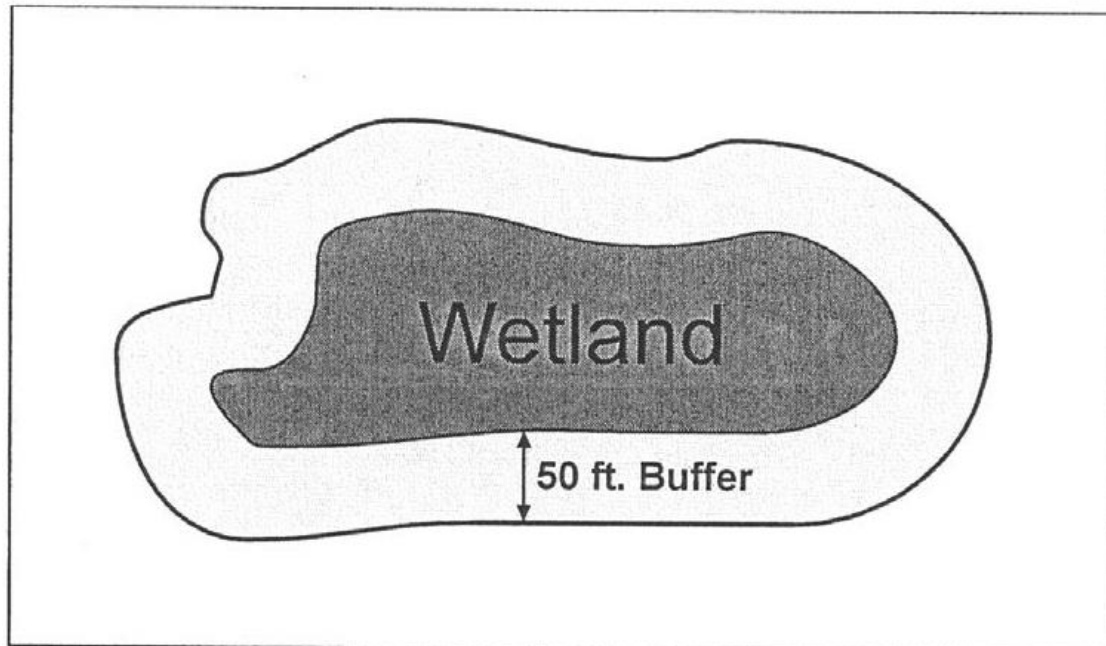
- B. *Reviewing authority.* The city manager or designee is authorized to conduct all reviews pursuant to this section.
- C. *Level of review.* The level of review shall be classified as follows:
  - 1. *Basic review.* All applications shall undergo basic review. Basic review shall consist of determining, from available data sources and site visits (where necessary), the potential presence of any regulated surface waters and wetlands. If the basic review indicates the presence of any regulated surface waters or wetlands, then a level 1 review is required.
  - 2. *Level 1 review.* Level 1 review shall consist of more detailed review of the project data and the potential impacts identified in the basic review, including coordination with appropriate regulatory agencies, site visits and recommendation of modifications to the development proposal in order to avoid or minimize impacts to the regulated surface waters or wetlands. If during environmental review it is determined that a mitigation plan for impacts to the regulated surface waters and wetlands is required, then a level 2 review is required.
  - 3. *Level 2 review.* Level 2 review shall consist of extensive review of the potential environmental impacts, including coordination with appropriate regulatory agencies, recommendation of modifications to the development proposal in order to avoid and minimize potential impacts; and review of and comment on the mitigation plan to address remaining impacts.
- D. *Review report.* Upon reviewing an application, the reviewing authority shall issue a written report that describes: The scope of the review conducted; the presence (or absence) of regulated surface waters and wetlands; whether the proposed development complies with the Comprehensive Plan, the Land Development Code and other applicable law with respect to the regulated surface waters and wetlands; the potential (or actual) impacts that the development will have on the environmental features of concern and the reviewing authority's recommendations to address the impacts.
- E. *Review fees.* The fees for all reviews are set forth in appendix A, schedule of fees, rates and charges. The fee will cover up to three reviews within a two-year period for the same project. By way of example, a single project that is required to undergo basic and level 1 reviews due to three applications filed within a two-year period for a PD rezoning, a special use permit and a development plan will be charged one level 1 review fee, not three level 1 review fees. The fees shall be paid within five business (excludes weekends and city holidays) days of the date of written notice from the city that a level 1 or level 2 review is required. Failure to timely pay the review fees shall result in the application being deemed incomplete and returned to the applicant.

Sec. 30-8.20. - General requirements and procedures.

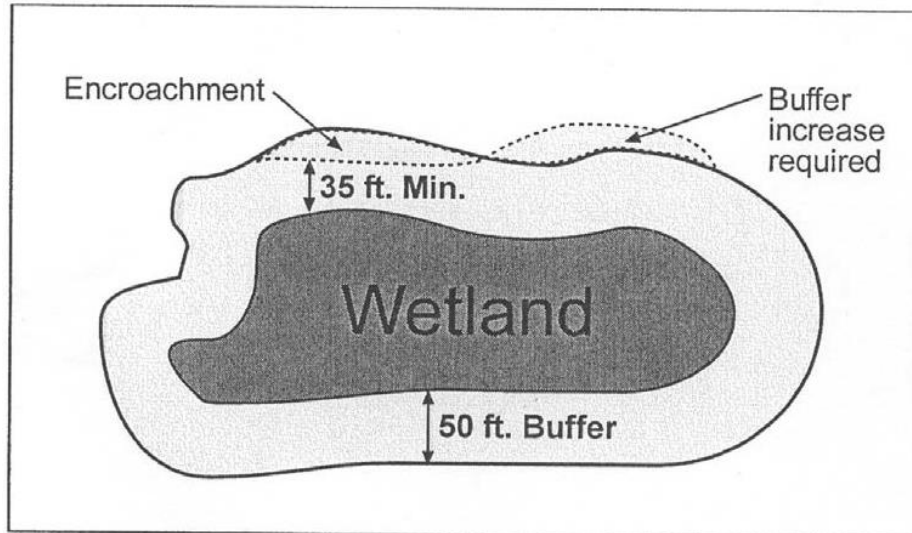
- A. Wetlands and required wetland buffers shall not be included within any platted lots or blocks of any subdivision (not including lot splits and minor subdivisions) that is approved after April 12, 2004.
- B. Except as otherwise provided, there shall be no development in, on or over a surface water or wetland, or within 75 feet of the landward extent of a regulated lake, or within 35 feet of the break in slope at the top of the bank of any regulated creek.
- C. A minimum buffer distance of 35 feet and an average minimum buffer distance of 50 feet shall be required between the developed area and the landward extent of any wetland or surface water, other than (as provided in the preceding paragraph) a regulated lake or creek. Figure 1 depicts the minimum 50-foot buffer distance without encroachment. Wherever the buffer distance is less than 50 feet, the amount of such encroachment along the 50-foot buffer line shall be mitigated along an equal length of buffer line contiguous to the encroachment. Such mitigation shall consist of increasing the minimum buffer distance so that the average minimum buffer distance of 50 feet is maintained at that location. Figures 2 and 3 depict encroachment of the 50-foot distance with required mitigation contiguous to the encroachment. The required increase in minimum buffer distance can be provided along an equal length of buffer line not contiguous to the encroachment only if greater protection of wetland resources can be attained, subject to the approval of the city manager or designee or appropriate reviewing board. See Figure 4 for depiction of increased minimum buffer distance along equal length of buffer line not contiguous to the encroachment.

- D. The average minimum distance of 50 feet shall be maintained under all circumstances unless it is established, prior to permitting, by competent, substantial evidence that a distance greater than 50 feet is required for the protection of wetland functions, as required by this article. Buffers shall remain in an undisturbed condition except for drainage features that will not adversely affect wetland functions and public infrastructure exempted by section 30-8.18. Outfall structures from stormwater retention or detention basins can be allowed within required buffers. The buffer shall not apply to surface waters or wetlands created by humans, except those wetlands that are created for mitigation. The buffer shall be clearly delineated with permanent markers.
- E. Within required wetland or surface water buffers, there shall be no placement of impervious surfaces or sod, except as otherwise allowed pursuant to this article. All invasive, non-native plant species listed in section 30-8.3 shall be removed prior to issuance of the certificate of occupancy. All plants listed on the Noxious Weed List, Section 5B-57.007, Florida Administrative Code, shall be removed prior to issuance of the certificate of occupancy. Native vegetation shall be retained and/or installed in order to protect wetland and surface water environmental features.

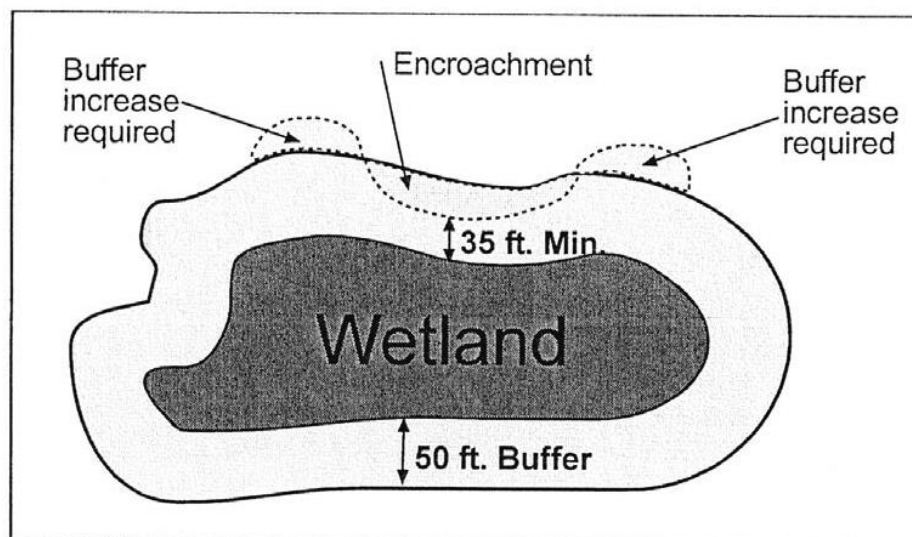
**Figure IX-1. Minimum 50-foot buffer**



**Figure IX-2. Buffer encroachment with contiguous increase**

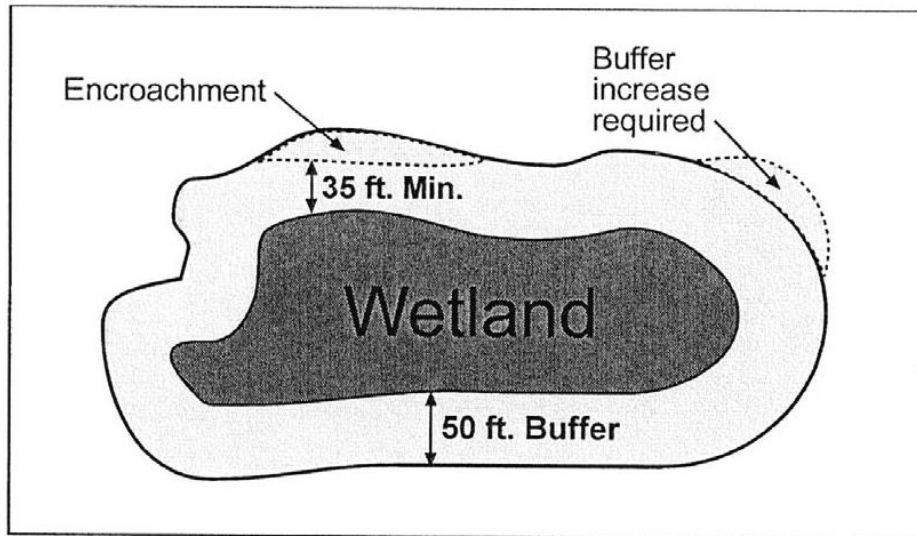


**Figure IX-3. Buffer encroachment with contiguous increases**





**Figure IX-4. Buffer encroachment with non-contiguous increase**



- F. Outstanding Florida Waters, as listed in Section 62-302.700, Florida Administrative Code, shall have a minimum buffer of 200 feet.
- G. For development activity between 35 and 150 feet from the break in slope at the top of the bank of any regulated creek, it is a rebuttable presumption that the development activity is detrimental to the regulated creek and is therefore prohibited unless approval is granted as set forth below.
- H. Development plans for lots within 150 feet of any regulated creek shall demonstrate compliance with the following standards (standards (2) and (3) shall not be applied to residential single-family lots):
  - 1. The development will not introduce erosion and sediment pollution to the creek both during and after construction;
  - 2. The first one inch of runoff or appropriate water management district standards, whichever is greater, will either be retained or detained through filtration on the project site;
  - 3. There will be no net increase in the rate of runoff from the site;
  - 4. There is no threat to the stability of the creek bank; and
  - 5. There will be no placement of buildings, structures, impervious surfaces, or sod that would require the removal of vegetation integral to the creek's ecological value. All invasive, non-native plant species listed in section 30-8.3 shall be removed prior to issuance of the certificate of occupancy. All plants listed on the Noxious Weed List, Section 5B-57.007, Florida Administrative Code shall be removed prior to issuance of the certificate of occupancy. Native vegetation shall be installed and/or retained to protect surface water or wetland environmental features.
- I. The development will not modify groundwater levels so as to have an adverse impact on the hydrological regime of a surface water or wetland. For the purposes of this provision, adverse impact is defined as a change that prevents the surface water or wetland from maintaining a structure and function equivalent to pre-development levels.
- J. If a proposed development requires development plan review pursuant to article III, the showing of compliance with the requirements of the surface waters and wetlands sections of article VIII shall be made in development plan review. The petition for development plan review shall provide both a hydrological report and construction plans prepared by a qualified engineer registered in the state.
- K. If a proposed development does not require development plan review, a showing of compliance shall be certified by the city manager's designee prior to issuance of any building permit. To demonstrate

compliance with the requirements concerning quality and control of erosion and sediment pollution, the development plan may employ the city's "General Criteria for Controlling Erosion and Sediment," in the design manual, or equivalent practices, rather than employing the more elaborate hydrological and soil reports used in development plan review. Compliance with the measures required by "General Criteria for Controlling Erosion and Sediment" shall be presumed sufficient to meet the standards in subsections 30-8.20.H.1., 2. and 3. The development plan shall provide enough information to demonstrate compliance with the remaining standards, but need not ordinarily be prepared by a registered engineer. A professional land surveyor certified by the state shall provide the lot boundaries survey and topographical information.

- L. On-site transfer of development intensity and density. In order to protect surface water features of a site, development intensity and density for building areas may be transferred from a lower to a higher elevation within the same property or adjacent property under the same ownership and zoning category. Intensity and density may be apportioned over the property by reserving the surface water and its buffer area as common open space. If all of the intensity and density is transferred to the adjacent property, the owner shall record a restriction in the chain of title of the transferor property, prior to issuance of a final development order, to restrict the use of the land in perpetuity to non-development uses, with such restrictions being expressly enforceable by the city.
- M. The installation of new septic tanks is prohibited within 150 feet of the landward extent of a regulated lake or wetland, or within 150 feet from the break in slope at the top of the bank of a regulated creek.

Sec. 30-8.21. - Avoiding loss or degradation of wetlands.

Wetlands within and around the City of Gainesville provide environmental benefits such as water quality improvement, floodplain and erosion control, groundwater recharge and wildlife habitat, especially for species listed as endangered, threatened or of special concern by state and federal agencies, plus recreational, aesthetic and educational opportunities for people. These functions may be provided regardless of wetland size. Wetlands damaged or degraded shall either be restored to their function and condition prior to such damage, or mitigated pursuant to the mitigation requirements in the Comprehensive Plan, this Code, and in accordance with appropriate water management district standards.

- A. *Purpose and intent.* The purpose of this section is to avoid loss or degradation of wetland functions, to minimize unavoidable degradation or loss of wetland functions and to require mitigation that fully offsets any unavoidable loss or degradation of wetland functions. In addition, it is the purpose of this section to ensure that development activities that cause the unavoidable degradation or loss of wetland function are clearly in the public interest and fully offset any degradation or loss of wetland functions through sustainable mitigation. This section should contribute to the restoration of wetlands functions in the city.
- B. *Applicability.* Except as provided below this section shall be applicable to all wetlands within the City of Gainesville. This section shall not apply to the maintenance of permitted stormwater systems.
- C. *Delineation.* Wetlands shall be delineated pursuant to Rule 62-340.300, Florida Administrative Code. Delineations performed by the State of Florida pursuant to Rule 62-340.300, Florida Administrative Code, shall be binding on the city for the purposes of this section.
- D. *Avoidance through minimization.* Avoidance of loss of wetland function and wetland habitat is of the highest priority. The owner shall avoid loss of wetland function and wetland habitat by implementing practicable design alternatives to minimize adverse impacts to wetlands, except as permitted in this section.

The adverse impacts remaining after practicable design modifications have been made shall be offset by mitigation as provided herein. A development activity cannot cause a net adverse impact on wetland functions, wetland habitat, or surface water functions, if such activity is not offset by mitigation.

Avoidance through practicable design modifications is not required when the ecological value of the function provided by the area of wetland is low and the proposed mitigation will provide greater long-term ecological value than the area of wetland to be affected.

- E. *Conditions for the issuance of a development permit for property upon which wetlands are located.* The city manager or designee or appropriate reviewing board shall review all permit applications based on the conditions set forth below. No development of property containing wetlands shall be permitted unless the owner provides reasonable assurance that the activity:
1. Will not adversely impact the value of wetland functions provided to fish and wildlife and listed species;
  2. Will not cause adverse secondary or cumulative impacts to water and wetland resources;
  3. Will be capable, based on generally accepted engineering and scientific principles, of being performed and of functioning as proposed;
  4. Will be conducted by an entity with the sufficient financial, legal and administrative capability to ensure that the activity will be undertaken in accordance with the terms and conditions of the permit, if issued;
  5. Will comply with criteria for buffer zones set forth herein;
  6. Is consistent with the owner's stormwater management permit, if required; and
  7. Is clearly in the public interest based on a balancing of the following criteria:
    - a. Whether the development activity requires location in, on, or over wetlands or surface waters in order to fulfill its basic function;
    - b. The effect of the development activity on the public health, safety, or welfare or the property of others;
    - c. The effect of the development activity on fish, wildlife and native plant communities;
    - d. The effect of the development activity on recreation, open space and aesthetic values;
    - e. The effect of the development activity on significant historical and archaeological resources;
    - f. Whether the development activity will be of a temporary or permanent nature;
    - g. The current condition and relative value of wetland functions being performed by areas affected by the proposed activity;
    - h. The type, extent, and geographic location of any mitigation proposed;
    - i. The extent to which the development furthers the goals of the Comprehensive Plan, and the proximity of the development to existing infrastructure.
- F. *Mitigation.* This section applies to development activities in wetlands, which cannot be avoided or minimized, as determined by the criteria stated herein. Mitigation means an action or series of actions to offset the adverse impacts that would otherwise cause a regulated activity to fail to meet the criteria set forth herein.
1. *Types of mitigation; mitigation ratios.* Mitigation consists of creation, preservation, enhancement, restoration, or a combination thereof in accordance with the ratios and preferences set forth in Chapter 62-345, Florida Administrative Code (Uniform Mitigation Assessment Method).
    - a. Preservation means the protection of wetlands, other surface waters or uplands from adverse impacts by placing a conservation easement or other comparable land use restriction over the property, in favor of the governmental entity with the appropriate jurisdiction.
    - b. Enhancement is an improvement in wetland function.



- c. Restoration means converting existing wetlands, surface waters or uplands from a disturbed or altered condition to a previously existing natural condition to the maximum extent possible.
  - d. Creation means the establishment of new wetlands or surface waters by conversion of other landforms. Wetland creation is the least acceptable mitigation alternative and shall be considered only when preservation, restoration or enhancement within the sub-basin, basin or adjacent basin are infeasible at the ratios provided and when the owner can demonstrate that the proper hydrology and geology exist to make a created wetland sustainable.
- 2. *Location of mitigation.* Any mitigation required pursuant to this section shall be performed within the basins and sub-basins described below, and may be performed on-site. These basins and sub-basins shall be specifically delineated on a map in the data and analysis section of the conservation, open space and groundwater recharge element of the Comprehensive Plan. Sub-basins include but are not limited to those drainage units within basins described below and as determined by the city manager or designee.
  - a. *Newnans Lake Basin.* This basin generally includes the areas east of the Hogtown Creek watershed and the Blues Creek watershed and north and east of the Paynes Prairie watershed. It includes Hatchet Creek, Little Hatchet Creek, Gum Root Swamp, Sunnyland Creek, Lake Forest Creek and the Newnans Lake watershed.
  - b. *Paynes Prairie Basin.* The Paynes Prairie Basin generally consists of the area west and south of the Newnans Lake Basin and south of the Hogtown Creek watershed flowing to Paynes Prairie and Alachua Sink. The Paynes Prairie Basin includes Sweetwater Branch, Rosewood Lateral, Tumblin Creek, Bivans Arm, Extension Ditch, Calf Pond Creek, Alachua Sink and the Paynes Prairie watershed.
  - c. *Hogtown Creek Basin.* The Hogtown Creek basin generally includes the watershed for Hogtown Creek and Haile Sink and includes the depression basins that are adjacent to the west side of the watershed and within the Gainesville Community Basin. This Basin includes Hogtown Creek, Rattle Snake Creek, Springstead Creek, Pine Forest Creek, Ridge View Creek, Glenn Springs Creek, Possum Creek, Three Lakes Creek, Millhopper Creek, Monterey Creek, Royal Park Creek, Beville Creek, and the Lake Alice watershed, Lake Kanapaha, Rutledge Drain, Liberty Drain, Unnamed Branch and Unnamed Drain.
  - d. *Blues Creek Basin.* The Blues Creek Basin generally includes the area northwest of the Hogtown Creek Basin. The basin includes Blues Creek, Alachua Slough and Sanchez Prairie.
  - e. Sub-basins may be delineated for each basin.
- G. *Order of mitigation preference.* The order of preference for the location of the mitigation area in relation to the impacted area is as follows:
  - 1. In the same sub-basin;
  - 2. In the same basin;
  - 3. In another listed basin.

The appropriate reviewing board or city manager or designee, in writing, may approve a deviation from this order of preference if greater ecological benefits would be achieved with another order.
- H. *Mitigation plan.* Owners shall submit to the city manager or designee detailed plans describing proposed construction, establishment, and management of mitigation areas. These plans shall include the following information, as appropriate for the type of mitigation proposed by the owner:
  - 1. A soils map of the mitigation area and other soils information pertinent to the specific mitigation actions proposed;

2. A topographic map of the mitigation area and adjacent hydrologic contributing and receiving areas;
  3. A hydrologic features map of the mitigation area and adjacent hydrologic contributing and receiving areas;
  4. A description of current hydrologic conditions affecting the mitigation area;
  5. A map of plant communities in and around the mitigation area, including buffer areas;
  6. Construction drawings detailing proposed topographic alterations and all structural components associated with proposed activities;
  7. Proposed construction activities, including a detailed schedule for implementation;
  8. Vegetation planting scheme and schedule for implementation, if planting is proposed;
  9. Sources of plants and soils used in wetland creation;
  10. Measures to be implemented during and after construction to avoid adverse impacts related to proposed activities;
  11. A management plan comprising all aspects of operation and maintenance, including water management practices, plant establishment, exotic and nuisance species control, fire management, and control of access;
  12. A proposed monitoring plan to demonstrate mitigation success;
  13. A description of the activities proposed to control exotic and nuisance species should these become established in the mitigation area. The mitigation proposal shall include reasonable measures to assure that these species do not invade the mitigation area in such numbers as to affect the likelihood of success of the project;
  14. A description of anticipated site conditions in and around the mitigation area after the mitigation plan is successfully implemented;
  15. A comparison of current fish and wildlife habitat to expected habitat after the mitigation plan is successfully implemented; and
  16. An itemized estimate of the cost of implementing mitigation, if applicable, as set forth herein.
- I. *Monitoring requirements for mitigation areas.* The owner shall monitor the progress of mitigation areas until success can be demonstrated as provided herein. Monitoring parameters, methods, schedules, and reporting requirements shall be specified as conditions within the appropriate permit. At a minimum, the owner shall transmit to the city manager or designee monitoring reports certified by an environmental scientist, biologist, registered engineer or registered landscape architect. These reports shall be submitted no less frequently than every 12 months for at least three years, except as provided herein. At a minimum, the monitoring reports shall include the following:
1. An executive summary;
  2. A table of contents;
  3. A map of the site;
  4. Color photographs of the site and its important features;
  5. A description and analysis of water levels;
  6. A description and analysis of water quality;
  7. A description and analysis of the amount and types of nuisance and exotic plants;
  8. A description and analysis of the amount and types of intended and native plants;
  9. The survival rates of installed plants;
  10. Wildlife observations; and

11. A description of mitigating activities by owner or agent.

Pursuant to the requirements of the Comprehensive Plan, regulatory fees for mitigation plan review and mitigation plan implementation shall be borne by the owner. Similar reporting to and review by the water management district shall be acceptable in lieu of this review.

- J. *Protection of mitigation areas.* The owner shall propose and be responsible for implementing methods to assure that mitigation areas will not be adversely impacted by incidental encroachment or secondary activities which might compromise mitigation success.
- K. *Mitigation success.* After three years of monitoring, the owner shall provide to the city manager or designee a written certification by an environmental scientist, biologist or registered engineer or registered landscape architect that the mitigation meets applicable success criteria as described below. If certification of success is not submitted or is not approved by the city manager or designee, then monitoring shall continue and monitoring reports shall be submitted until the city manager or designee deems the mitigation successful.
  - 1. *Mitigation success criteria.* Mitigation success will be measured in terms of whether the objectives of the mitigation are realized. The success criteria to be included in permit conditions will specify the minimum requirements necessary to attain a determination of success. The city manager or designee shall deem the mitigation successful when all applicable water quality standards are met, the mitigation area has achieved viable and sustainable ecological and hydrological functions, and the specific success criteria contained in the permit are met. If success is not achieved within the time frame specified within the permit, remedial measures shall be required. Monitoring and maintenance requirements shall remain in effect until success is achieved.
- L. *Financial assurances.* As part of compliance with this section, the owner shall provide proof of financial assurance when: 1) conducting the mitigation activities; 2) conducting any necessary management of the mitigation site; 3) conducting monitoring of the mitigation; and 4) conducting any necessary corrective action indicated by the monitoring.
  - 1. *Cost estimates.* The amount of financial assurance provided by the owner shall be an amount equal to 120 percent of the cost estimate for each phase of the mitigation plan. For the purposes of determining the amount of financial assurance that is required by this subsection, the owner shall submit a detailed written estimate, in current dollars, of the total cost of conducting the mitigation, including any maintenance and monitoring activities, and the owner shall comply with the following:
    - a. The cost estimate for conducting the mitigation and monitoring shall include all associated costs for each phase thereof, including earthmoving, planting, structure installation, maintaining and operating any structures, controlling nuisance or exotic species, fire management, consultant fees, monitoring activities and reports.
    - b. The owner shall submit the estimates, together with comprehensive and verifiable documentation, to the city manager or designee along with the draft of the financial assurance.
    - c. The costs shall be estimated based upon a qualified third party performing the work and supplying services and materials at fair market value. All cost estimates shall be supported by comprehensive and verifiable documentation.
  - 2. *Financial responsibility assurances.* Financial responsibility for the mitigation, monitoring, and corrective action for each phase of the project may be established by any of the following methods, at the discretion of the owner:
    - a. *Bond.* A performance bond shall be filed with the city manager or designee which is executed by a surety company authorized to do business in the state with a rating of not lower or less than A-XII as rated by A.M. Best Company, Inc., an independent national rating service for performance companies, which bond shall be conditioned to secure the required mitigation, monitoring, and corrective action in a satisfactory manner within 12



months from final plat approval and any extension of such period approved by the city commission, or, in the case of development (site) plan review, prior to final development plan approval. The bond shall be enforceable by and payable to the city in a sum at least equal to 120 percent of the total cost of the required mitigation, monitoring, and corrective action as estimated by the project engineer and verified and approved by the city manager or designee. The bond shall be first approved by the city attorney as to form and legality prior to its submission with the proposed final plat to the city commission for approval and shall be executed by both the owner and the party or parties with whom the owner has contracted to perform the required mitigation, monitoring, and corrective action. In the case of development (site) plan review, the bond shall be first approved by the city attorney as to form and legality prior to submission of the proposed final development plan to the appropriate reviewing entity (board or city manager or designee) and shall be executed by the developer and the party or parties with whom the developer has contracted to perform the required mitigation, monitoring, and corrective action; or

- b. *Irrevocable letter of credit.* Deposit with the city manager or designee an irrevocable and unconditional letter of credit by a Florida bank that has authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency. The letter of credit shall be for an amount equal to 120 percent of the estimated costs of the required mitigation, monitoring, and corrective action. The letter of credit shall remain with the city as a valid letter of credit until the city is satisfied that all of the required mitigation, monitoring, and corrective action has been completed in accordance with plans and specifications, that mitigation success as provided herein has been achieved, and that all other provisions of this chapter relating thereto have been fully complied with; or
  - c. *Insurance certificate.* An insurance certificate from a company authorized to do business in the state and which has a rating of not lower or less than A-XII as rated by A.M. Best Company, Inc. The insurance certificate and its associated insurance policy shall be reviewed and approved by the city manager or designee before the city can accept the certificate as a financial responsibility assurance to secure the mitigation, monitoring and corrective action. The insurance certificate shall name the city named as an additional insured and shall provide not less than 30 calendar days' notice to the city of cancellation; or
  - d. *Cash deposit.* A cash deposit in an amount equal to 120 percent of the estimated costs of the required mitigation, monitoring, and corrective action. The cash deposit shall remain with the city until the city is satisfied that all of the required mitigation, monitoring, and corrective action has been completed in accordance with plans and specifications, that mitigation success as provided herein has been achieved, and that all other provisions of this chapter relating thereto have been fully complied with.
3. *Owners not subject to financial assurance requirements.* Owners whose mitigation is deemed successful pursuant to the mitigation success criteria provided herein prior to undertaking the construction activities authorized under their permit, or owners who purchase credits in a mitigation bank to offset the adverse impacts as required herein, are not subject to the financial assurance requirements of this section.
4. *General terms for financial assurances.* In addition to the specific provisions regarding financial assurances set forth herein, the following shall be complied with:
- a. The city attorney shall approve the form and content of all financial assurances prior to the commencement date of the activity authorized by the permit.
  - b. The financial assurance(s) shall name the city as sole beneficiary or shall be payable solely to the city. If the financial assurance is of a type that is retained by the beneficiary according to industry standards, the city shall retain the original financial assurance. For mitigation projects required both by the city and the water management district, the financial assurance(s) shall name the city and the water management district as joint beneficiaries or shall be payable to the city and the water management district jointly,

unless the city and the water management district establish an alternative arrangement in writing with respect to the designated beneficiary or payee.

- c. The financial assurances shall be effective on or prior to the date that the activity authorized by the permit commences and shall continue to be effective through the date of notification of final release by the city, which shall occur within 30 calendar days of the determination that the mitigation is successful.
  - d. The financial assurances cannot be revoked, terminated, or canceled without the owner first providing an alternative financial assurance that meets the requirements of this Code. Once the owner receives actual or constructive notice of revocation, termination, or cancellation of a financial assurance or other actual or constructive notice of cancellation, the owner shall provide such an alternate financial assurance prior to expiration of the financial assurance.
5. *Financial assurance conditions.* For owners subject to the financial assurance requirements of this section, the city manager or designee will include the following conditions in the permit:
- a. An owner shall notify the city attorney by certified mail of the commencement of a voluntary or involuntary proceeding under Title XI (Bankruptcy), U.S. Code naming the permittee as debtor within ten business days of the owner filing of the petition.
  - b. An owner who fulfills the requirements of this section by obtaining a letter of credit or bond will be deemed to be without the required financial assurance in the event of bankruptcy, insolvency or suspension or revocation of the license or charter of the issuing institution. The owner shall reestablish a financial assurance in accordance with this section within 60 calendar days after such event.
  - c. When transferring a permit, the new owner or person with legal control shall submit documentation to satisfy the financial assurance requirements of this section. The prior owner or person with legal control of the project shall continue financial assurance until the city manager or designee has approved the permit transfer and substitute financial assurance.
6. *Releases.*
- a. *Partial releases.* The owner may request the city attorney to release portions of the financial assurance as phases of the mitigation plan, such as earth moving or other construction activities for which cost estimates were submitted in accordance with this section, are successfully completed. The request shall be in writing and include documentation that the phase or phases have been completed and have been paid for, or will be paid for, upon release of the applicable portion of the financial assurance. The city attorney shall authorize the release of the portion requested upon verification that the construction or activities has been completed in accordance with the mitigation plan.
  - b. *Final release.* Within 30 calendar days of successful mitigation, as determined by the city manager or designee and based on the criteria stated herein, the city shall notify the owner and shall authorize the return and release of all funds held or give written authorization to the appropriate party of the cancellation or termination of the financial assurance.
- M. *Application procedure.* An owner seeking a permit for a development activity in an area containing wetlands shall adhere to the application procedure set forth in the development review process provisions of the Land Development Code.
- N. *Density transfers.* The Land Development Code provisions relevant to onsite transfer of development intensity and density shall apply to the transfer of intensity and density of developments within or in an area containing wetlands.
- O. *Exemptions.* The wetlands protection regulations do not apply to owners and applications exempted pursuant to section 30-8.18.

Sec. 30-8.22. - Single-family lots.

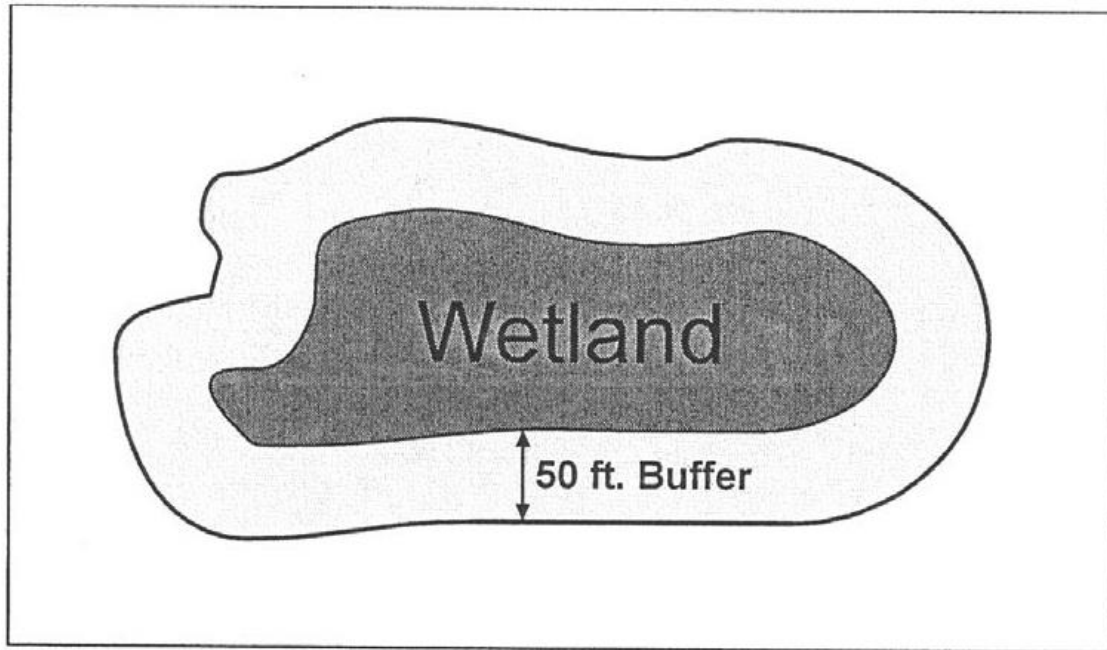
- A. *Applicability of standards.* All development of single-family lots shall comply with the surface waters and wetlands sections of this article. If a subdivision plat has satisfied the requirements of these sections, the city may issue a certification of compliance for some or all of the lots in the subdivision at one time. In that case the lots are subject to further compliance review at the time of issuance of a building permit, only for compliance with the construction measures required by general criteria for controlling erosion and sediment.
- B. *Special permits.* In order to allow the reasonable development of a single-family dwelling and customary accessory structures and driveways on platted lots regulated by the surface waters and wetlands sections of this article, the development review board may grant a modification from compliance with the minimum buffer requirements of these sections only to the extent necessary to accommodate such reasonable development. As part of the same proceedings, the board may also grant variances to the yard setbacks required by this chapter in order to facilitate compliance with these sections subject to a finding that such special permits will neither be injurious to adjacent property owners or the neighborhood nor detrimental to the public welfare.
1. *Minimum requirement for special permits.* Special permits may be granted by the Development Review Board for single-family lots located within the 75-foot required minimum buffer for regulated lakes, or within the required average minimum buffer distance of 50 feet from the landward extent of any wetland or surface water, or within 150 feet of the break in slope at the top of bank of a regulated creek for lots which are lawfully created before April 12, 2004.
  2. *Criteria for granting of special permits.* The following criteria shall be used in deciding whether and to what extent a special permit should be granted:
    - a. The development review board shall determine what is reasonable development of a single-family lot, accessory structures and drives and shall consider the following factors:
      - i. The size of existing single-family dwellings in the immediate vicinity should serve as a guide to what is customary and reasonable for the property under review.
      - ii. No special permit shall be granted for the purpose of accommodating a swimming pool, tennis court, racquetball court or similar recreational structure, or to accommodate accessory uses that are not customary on single-family lots or exceed the customary size.
    - b. The Development Review Board shall consider features of the site, including its topography, the width of the creek bed, and the presence or absence of vegetation natural to the creek, lake or wetland, which indicate that a special permit would or would not further the goals of these sections.
    - c. The development review board shall consider building code requirements, including building orientation requirements to meet energy efficiency standards that affect the design and/or orientation of structures on the lot.
    - d. The development review board shall consider presence of trees eight inches or greater in diameter at a point four and one-half feet above the ground level that can only be preserved if a special permit is granted.
  3. The development review board shall consider staff reports as needed in reaching its decision. In granting a special permit the board shall establish measures to ensure that the goals of these sections are substantially met, in particular maintaining natural vegetation where feasible, preventing sedimentation loading to the creek, lake or wetland, maintaining the stability of the creek or lake bank, and preventing the degradation of the water quality of the creek, lake or wetland. To achieve these aims, the Development Review Board shall attach such reasonable conditions and safeguards, such as construction control techniques and other mitigative measures, as it deems necessary.
- C. *Special permit procedures.* Applications shall be processed in accordance with the requirements in this chapter relating to variances, established for the development review board.

Sec. 30-8.20. - General requirements and procedures.

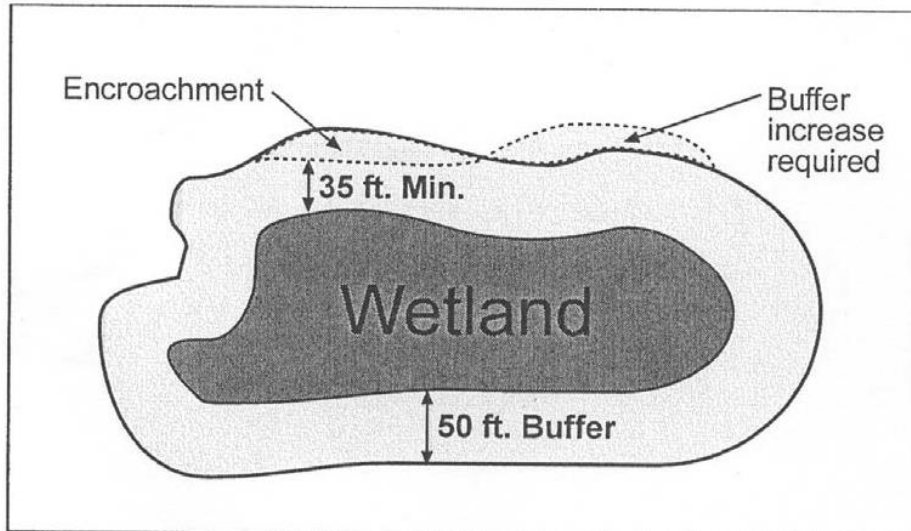
- A. Wetlands and required wetland buffers shall not be included within any platted lots or blocks of any subdivision (not including lot splits and minor subdivisions) that is approved after April 12, 2004.
- B. Except as otherwise provided, there shall be no development in, on or over a surface water or wetland, or within 75 feet of the landward extent of a regulated lake, or within 35 feet of the break in slope at the top of the bank of any regulated creek.
- C. A minimum buffer distance of 35 feet and an average minimum buffer distance of 50 feet shall be required between the developed area and the landward extent of any wetland or surface water, other than (as provided in the preceding paragraph) a regulated lake or creek. Figure 1 depicts the minimum 50-foot buffer distance without encroachment. Wherever the buffer distance is less than 50 feet, the amount of such encroachment along the 50-foot buffer line shall be mitigated along an equal length of buffer line contiguous to the encroachment. Such mitigation shall consist of increasing the minimum buffer distance so that the average minimum buffer distance of 50 feet is maintained at that location. Figures 2 and 3 depict encroachment of the 50-foot distance with required mitigation contiguous to the encroachment. The required increase in minimum buffer distance can be provided along an equal length of buffer line not contiguous to the encroachment only if greater protection of wetland resources can be attained, subject to the approval of the city manager or designee or appropriate reviewing board. See Figure 4 for depiction of increased minimum buffer distance along equal length of buffer line not contiguous to the encroachment.
- D. The average minimum distance of 50 feet shall be maintained under all circumstances unless it is established, prior to permitting, by competent, substantial evidence that a distance greater than 50 feet is required for the protection of wetland functions, as required by this article. Buffers shall remain in an undisturbed condition except for drainage features that will not adversely affect wetland functions and public infrastructure exempted by section 30-8.18. Outfall structures from stormwater retention or detention basins can be allowed within required buffers. The buffer shall not apply to surface waters or wetlands created by humans, except those wetlands that are created for mitigation. The buffer shall be clearly delineated with permanent markers.
- E. Within required wetland or surface water buffers, there shall be no placement of impervious surfaces or sod, except as otherwise allowed pursuant to this article. All invasive, non-native plant species listed in section 30-8.3 shall be removed prior to issuance of the certificate of occupancy. All plants listed on the Noxious Weed List, Section 5B-57.007, Florida Administrative Code, shall be removed prior to issuance of the certificate of occupancy. Native vegetation shall be retained and/or installed in order to protect wetland and surface water environmental features.



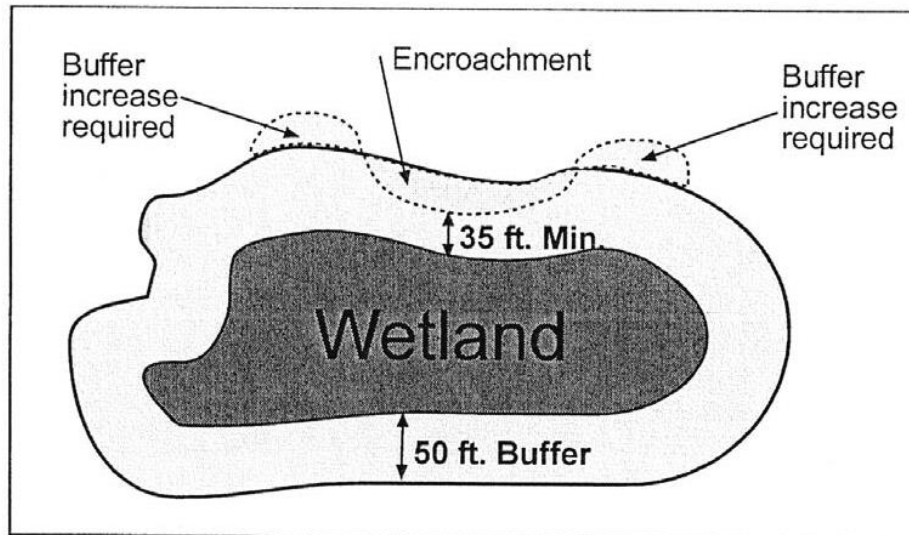
**Figure IX-1. Minimum 50-foot buffer**



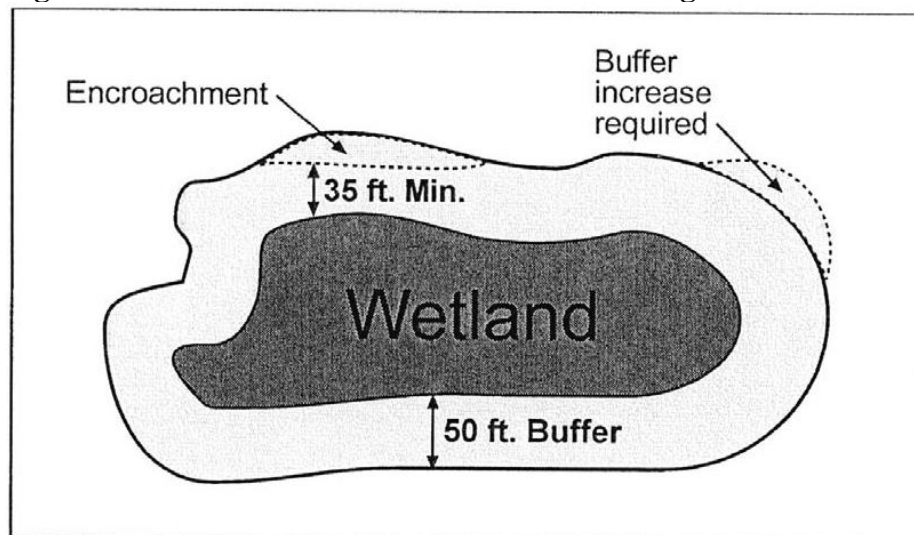
**Figure IX-2. Buffer encroachment with contiguous increase**



**Figure IX-3. Buffer encroachment with contiguous increases**



**Figure IX-4. Buffer encroachment with non-contiguous increase**



- F. Outstanding Florida Waters, as listed in Section 62-302.700, Florida Administrative Code, shall have a minimum buffer of 200 feet.
- G. For development activity between 35 and 150 feet from the break in slope at the top of the bank of any regulated creek, it is a rebuttable presumption that the development activity is detrimental to the regulated creek and is therefore prohibited unless approval is granted as set forth below.
- H. Development plans for lots within 150 feet of any regulated creek shall demonstrate compliance with the following standards (standards (2) and (3) shall not be applied to residential single-family lots):
  - 1. The development will not introduce erosion and sediment pollution to the creek both during and after construction;
  - 2. The first one inch of runoff or appropriate water management district standards, whichever is greater, will either be retained or detained through filtration on the project site;
  - 3. There will be no net increase in the rate of runoff from the site;

4. There is no threat to the stability of the creek bank; and
  5. There will be no placement of buildings, structures, impervious surfaces, or sod that would require the removal of vegetation integral to the creek's ecological value. All invasive, non-native plant species listed in section 30-8.3 shall be removed prior to issuance of the certificate of occupancy. All plants listed on the Noxious Weed List, Section 5B-57.007, Florida Administrative Code shall be removed prior to issuance of the certificate of occupancy. Native vegetation shall be installed and/or retained to protect surface water or wetland environmental features.
- I. The development will not modify groundwater levels so as to have an adverse impact on the hydrological regime of a surface water or wetland. For the purposes of this provision, adverse impact is defined as a change that prevents the surface water or wetland from maintaining a structure and function equivalent to pre-development levels.
  - J. If a proposed development requires development plan review pursuant to article III, the showing of compliance with the requirements of the surface waters and wetlands sections of article VIII shall be made in development plan review. The petition for development plan review shall provide both a hydrological report and construction plans prepared by a qualified engineer registered in the state.
  - K. If a proposed development does not require development plan review, a showing of compliance shall be certified by the city manager's designee prior to issuance of any building permit. To demonstrate compliance with the requirements concerning quality and control of erosion and sediment pollution, the development plan may employ the city's "General Criteria for Controlling Erosion and Sediment," in the design manual, or equivalent practices, rather than employing the more elaborate hydrological and soil reports used in development plan review. Compliance with the measures required by "General Criteria for Controlling Erosion and Sediment" shall be presumed sufficient to meet the standards in subsections 30-8.20.H.1., 2. and 3. The development plan shall provide enough information to demonstrate compliance with the remaining standards, but need not ordinarily be prepared by a registered engineer. A professional land surveyor certified by the state shall provide the lot boundaries survey and topographical information.
  - L. On-site transfer of development intensity and density. In order to protect surface water features of a site, development intensity and density for building areas may be transferred from a lower to a higher elevation within the same property or adjacent property under the same ownership and zoning category. Intensity and density may be apportioned over the property by reserving the surface water and its buffer area as common open space. If all of the intensity and density is transferred to the adjacent property, the owner shall record a restriction in the chain of title of the transferor property, prior to issuance of a final development order, to restrict the use of the land in perpetuity to non-development uses, with such restrictions being expressly enforceable by the city.
  - M. The installation of new septic tanks is prohibited within 150 feet of the landward extent of a regulated lake or wetland, or within 150 feet from the break in slope at the top of the bank of a regulated creek.

Sec. 30-8.22. - Single-family lots.

- A. *Applicability of standards.* All development of single-family lots shall comply with the surface waters and wetlands sections of this article. If a subdivision plat has satisfied the requirements of these sections, the city may issue a certification of compliance for some or all of the lots in the subdivision at one time. In that case the lots are subject to further compliance review at the time of issuance of a building permit, only for compliance with the construction measures required by general criteria for controlling erosion and sediment.
- B. *Special permits.* In order to allow the reasonable development of a single-family dwelling and customary accessory structures and driveways on platted lots regulated by the surface waters and wetlands sections of this article, the development review board may grant a modification from compliance with the minimum buffer requirements of these sections only to the extent necessary to accommodate such reasonable development. As part of the same proceedings, the board may also grant variances to the yard setbacks required by this chapter in order to facilitate compliance with these sections subject to a finding that such special permits will neither be injurious to adjacent property owners or the neighborhood nor detrimental to the public welfare.
1. *Minimum requirement for special permits.* Special permits may be granted by the Development Review Board for single-family lots located within the 75-foot required minimum buffer for regulated lakes, or within the required average minimum buffer distance of 50 feet from the landward extent of any wetland or surface water, or within 150 feet of the break in slope at the top of bank of a regulated creek for lots which are lawfully created before April 12, 2004.
  2. *Criteria for granting of special permits.* The following criteria shall be used in deciding whether and to what extent a special permit should be granted:
    - a. The development review board shall determine what is reasonable development of a single-family lot, accessory structures and drives and shall consider the following factors:
      - i. The size of existing single-family dwellings in the immediate vicinity should serve as a guide to what is customary and reasonable for the property under review.
      - ii. No special permit shall be granted for the purpose of accommodating a swimming pool, tennis court, racquetball court or similar recreational structure, or to accommodate accessory uses that are not customary on single-family lots or exceed the customary size.
    - b. The Development Review Board shall consider features of the site, including its topography, the width of the creek bed, and the presence or absence of vegetation natural to the creek, lake or wetland, which indicate that a special permit would or would not further the goals of these sections.
    - c. The development review board shall consider building code requirements, including building orientation requirements to meet energy efficiency standards that affect the design and/or orientation of structures on the lot.
    - d. The development review board shall consider presence of trees eight inches or greater in diameter at a point four and one-half feet above the ground level that can only be preserved if a special permit is granted.
  3. The development review board shall consider staff reports as needed in reaching its decision. In granting a special permit the board shall establish measures to ensure that the goals of these sections are substantially met, in particular maintaining natural vegetation where feasible, preventing sedimentation loading to the creek, lake or wetland, maintaining the stability of the creek or lake bank, and preventing the degradation of the water quality of the creek, lake or wetland. To achieve these aims, the Development Review Board shall attach such reasonable conditions and safeguards, such as construction control techniques and other mitigative measures, as it deems necessary.



- C. *Special permit procedures.* Applications shall be processed in accordance with the requirements in this chapter relating to variances, established for the development review board.

Sec. 30-8.30. - Variances and appeals.

- A. *General.* The appropriate reviewing authority shall hear and decide on requests for appeals and requests for variances from the strict application of this subdivision and, pursuant to F.S. § 553.73(5), the flood resistant construction requirements of the Florida Building Code.
- B. *Appeals.* The appropriate reviewing authority shall hear and decide appeals, as provided in this chapter, when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the administration and enforcement of this subdivision.
- C. *Limitations on authority to grant variances.* The appropriate reviewing board shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in subsection 30-8.30.G. of this subdivision, the conditions of issuance set forth in subsection 30-8.30.H. of this subdivision, and the comments and recommendations of the floodplain administrator and the building official. The appropriate reviewing board has the right to attach such conditions as it deems necessary to further the purposes and objectives of this subdivision.
- D. *Restrictions in floodways.* A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in subsection 30-8.28.C. of this subdivision.
- E. *Historic buildings.* A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building, Chapter 11, Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.
- F. *Functionally dependent uses.* A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, provided the variance meets the requirements of subsection 30-8.30.D., is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.
- G. *Considerations for issuance of variances.* In reviewing requests for variances, the appropriate reviewing board shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this subdivision, and the following:
  - 1. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
  - 2. The danger to life and property due to flooding or erosion damage;
  - 3. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
  - 4. The importance of the services provided by the proposed development to the community;
  - 5. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
  - 6. The compatibility of the proposed development with existing and anticipated development;
  - 7. The relationship of the proposed development to the Comprehensive Plan and floodplain management program for the area;
  - 8. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
  - 9. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

10. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

H. *Conditions for issuance of variances.* Variances shall be issued only upon:

1. Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this subdivision or the required elevation standards;
2. Determination by the appropriate reviewing board that:
  - a. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
  - b. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances; and
  - c. The variance is the minimum necessary, considering the flood hazard, to afford relief.
3. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the office of the clerk of the court in such a manner that it appears in the chain of title of the affected parcel of land; and
4. If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the floodplain administrator to the applicant specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation, and stating that construction below the base flood elevation increases risks to life and property.