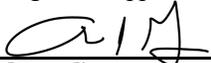




**Hillsborough
County Florida**

A report presented to the
Board of County Commissioners
on July 26, 2022
from Development Services Department
regarding
Possible LDC and Comprehensive Plan
Amendments Related to the Gopher Tortoise
Habitat Protection

Sign-Off Approvals	
	7/20/2022
Department Director	Date
Management and Budget – Approved as to Financial Impact Accuracy	Date
County Attorney – Approved as to Legal Sufficiency	Date
Assistant County Administrator	Date

- Consent Section – Informational purposes only. *(No discussion anticipated)*
- Consent Section – Board requested report. *(No discussion anticipated)*
- Staff Reports Section

Insert File

Note: Staff reports scheduled for the Consent or Staff Report sections may not contain any recommendations.

At the June 2, 2022, Regular Board of County Commissioners Meeting the County Attorney's Office presented a report on the County's ability to enact regulations related to gopher tortoises that exceed state requirements. The report concluded that the County could implement changes to the Land Development Code ("LDC") relating to the protection of gopher tortoise habitat but could not exercise regulatory control over the gopher tortoises since the Florida Fish and Wildlife Conservation Commission ("FWCC") has exclusive regulatory authority with regard to gopher tortoises themselves.

In response to the report, the Board directed staff to bring a report to the Board on possible amendments to the LDC and Comprehensive Plan that would do the following:

1. Require applicants for development of land that includes gopher tortoise habitat to provide a gopher tortoise burrow survey prepared by a FWCC authorized agent and to report any previous violations of gopher tortoise regulations in the State of Florida
2. Provide for consideration of smaller lot size requirements for developments that preserve on-site significant wildlife habitat beyond the minimum required by the LDC
3. Increase penalties for unpermitted land alterations to significant wildlife habitat
4. Amend the Comprehensive Plan to encourage the preservation of additional gopher tortoise habitat

Staff is proposing the potential LDC and Comprehensive Plan amendments summarized below that would be responsive to the Boards direction.

Gopher Tortoise Burrow Survey

Currently, the County reviews development applications against the significant wildlife habitat map in the Comprehensive Plan and conducts a site visit, if necessary. If a site is determined to be significant wildlife habitat, the applicant is required to provide a wildlife survey. If a gopher tortoise is located on the site but it is not SWH, currently the applicant does not have to conduct a wildlife survey.

A potential LDC amendment would require that any site found through site visit or wildlife survey to have gopher tortoises' burrows on site, shall have an FWC approved representative conduct a full site gopher tortoise management plan. This management plan will consist of a survey of all active and inactive burrows, and designate preservation or relocation plans for each gopher tortoise. Additionally, language could be added to the LDC requiring that any such management plan would be required to be accompanied by an affirmative statement by the property owner and applicant (if different) indicating whether they have or have not been determined to have violated any regulations relating to gopher tortoises in the State of Florida.

Smaller Lot Sizes to Incentivize Additional Preservation

The LDC requires the preservation of significant wildlife habitat when sufficient management capabilities exist to maintain or restore the habitat to a high quality natural plant community or communities. The preservation of xeric (dry) is required up to a limit of fifty percent of the upland area onsite and preservation of mesic (moist) habitat is required up to a limit of twenty-five percent of the upland area onsite with a maximum total preservation requirement for both xeric and mesic habitat of fifty percent of the upland area onsite.

As an incentive for an applicant to preserve significant wildlife habitat in excess of the maximum required by the LDC, staff is proposing to amend the LDC to allow for lot size reductions of lots internal to a development of up to 10 percent per lot capped at a total land area equal to the area of the excess significant wildlife habitat being preserved. This could be accomplished administratively for development in standard zoning districts and approved planned development zonings or could be incorporated as an allowance in future planned development zonings.

Increased Penalties for Unpermitted Land Alterations

Land alteration, which consists of the removal of vegetation from a site or changing a site's topography, is required to be authorized through the issuance by the County of a natural resource permit in most instances. When violations of this requirement occur, the available remedy is to either cure the violation by having the appropriate permit issued after-the-fact or to return the site to the pre-alteration state. If an appropriate cure is not pursued and enforcement case is brought before the Code Enforcement Board/Special Magistrate which can order the violation to be cured and daily fines in the event it is not cured.

This enforcement structure could result in early start unpermitted alterations to significant wildlife habitat that would otherwise be permissible in accordance with the LDC that could be cured with the issuance of a natural resources permit. In order to provide an increased disincentive for such actions staff is proposing to amend the LDC to require that any unpermitted alteration of significant wildlife habitat would require the restoration of the impacted land, including appropriate monitoring of the restorative work. In the event that the land alteration is ultimately deemed to be permissible or if on-site restoration is not a viable option, the violator would be required to make a payment equal to the cost to the average cost to restore impacted significant wildlife habitat, on a per acre basis. The use of these funds would be limited to the restoration, acquisition or protection of significant wildlife habitat within Hillsborough County.

Comprehensive Plan Amendment Encouraging Additional Gopher Tortoise Habitat Preservation

Complimentary to the concept of considering reduced lot sizes, the Comprehensive Plan could be amended to encourage on-site clustering of development in order to preserve gopher tortoise habitat specifically or significant wildlife habitat generally in order to take a broader approach. This concept could be supported by adding language to the Comprehensive Plan that lot size considerations may be recognized as an effort to encourage habitat preservation.

If the Board is inclined to proceed with these concepts, the proposed LDC amendments can be included in the 2022 Round 2 LDC amendment cycle and the proposed Comprehensive Plan amendment can be included in the July 1 cycle.

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