

Board of County Commissioners

Agenda Request

Date of Meeting: December 12, 2006

Date Submitted: December 6, 2006

To: Honorable Chairman and Members of the Board

From: Parwez Alam, County Administrator
Vincent S. Long, Deputy County Administrator
Wayne Tedder, Planning Department Director

Subject: Consideration of a Resource Protection and Acquisition Strategy for Fred George Basin.

Statement of Issue:

This agenda item requests Board consideration of a strategy to protect significant environmental resources within the Fred George Basin.

Background:

Protection of Fred George Basin, including its flood prone areas, wetlands, and the Fred George Sink itself, has remained a community priority since the adoption of the Tallahassee-Leon County Comprehensive Plan. Special Development Zones were crafted and adopted for the basin, the lands were zoned low-density residential, stormwater management projects have been contemplated, and the Board has explored the purchase of the adjoining Fred George Sink previously. The purchase of flood prone and environmentally sensitive properties within Fred George Basin (Attachment #1) was incorporated into the Blueprint 2000 and Beyond report that was adopted by the Board; however, the project was among those on the "B" list for which funding was not assured.

The owners of the properties forming the core of the Fred George Basin (Attachment #2) applied in April 2006 for three rezonings from RA (Residential Acre) to R-3 (Single-family detached, Attached Two-family Residential). Petitions requesting an Administrative Hearing were filed prior to the Planning Commission's hearing on the requested rezonings. Standing to challenge was found in two of the three rezonings. The Planning Commission's consideration of the third has been stayed, pending the resolution of the administrative hearing. Upon resolution of the administrative hearing, the Administrative Law Judge will make findings of fact to submit to the Planning Commission for use in its recommendation of denial or approval of the rezonings. As with all rezonings, the matter will ultimately be decided by the Board at a publicly noticed quasi-judicial hearing.

County staff from Administration, Budget, and Planning met with the plaintiffs and the property owners/representatives in late July 2006. As a result of that meeting, staff from these departments have met with the Trust for Public Land (TPL) in August and September 2006 to identify strategies and possible roles that the non-profit may assume in this context.

At its October 10, 2006 meeting, the Board directed staff to prepare an agenda item to consider pursuing acquisition of the subject properties through the Florida Communities Trust (FCT).

Analysis:

Property Characteristics: The subject properties comprise 156 acres, north of Fred George Road, between Capital Circle, NW, and the CSX tracks that run parallel to and west of Old Bainbridge Road. The properties include the following environmental features:

- Wetlands (55 acres, or about 35% of the area);
- 100-year Floodplain (with wetlands totaling 86 acres, or more than 55% of the area); and
- Severe Grades, i.e., slopes greater than 20% (an additional 5 acres).

In sum, regulated environmental features comprise nearly 91 acres, or more than 58% of the property. Most of this area is incorporated within the Special Development Zone for Fred George Basin.

Fred George Sink is located on a residential lot in the subdivision immediately north of the subject properties' northern property line. It is not part of the rezoning request, but has an environmental nexus with the features within the subject parcels. The Sink is hydrologically connected to waters within the rezoning and therefore the Sink receives runoff generated by and accumulated within the subject properties. It is part of the same karstic depression and contains wetland vegetation that is part of the larger wetland community of the subject parcels.

Development Potential: If all of the floodplains and wetlands onsite were deemed unaltered, about 70 acres could be developed. [*The 5 acres of significant grades are scattered throughout the property and do not hamper the general development potential of the site.*] Consequently, the maximum development potential of the properties is approximately 140-160 units if clustered on the roughly 70 acres that are not environmentally constrained.

Should the Board approve the requested R-3 zoning the maximum density would be 8 units per gross acre and the development potential would increase to about 815 units, based upon all units constructed on the minimum lot size of 3,750 sq. ft. [The actual number of units is inexact, however: number of units would be fewer if single-family detached or two-family were included in the development mix, and could be greater if there were a significant number of "interior" lots where the minimum size for interior lots is reduced to 2,400 sq. ft.]

However, the applicant for the rezonings has indicated a desire to construct about 160 units and to employ the R-3 rezoning primarily to develop single-family attached structures (duplexes). The existing RA zoning is limited to single-family detached.

While site plans have not been prepared or submitted, existing land development regulations would require that the more environmentally sensitive portions of the site be placed under a conservation easement or protected in perpetuity under some other instrument. If the developer's proposal were realized, the outcome would be development on no more than about 70 acres, with about 85 acres (more or less) placed under easement.

Environmental and Community Concerns: Based upon the overall intensity of development that the rezonings may generate the following are the key issues of concern raised by the community and the adjoining neighborhood:

- Significant loss of habitat for woodstorks, a listed species;
- Increased non-point pollution from new development into the Sink, which may impact area domestic wells;
- Increased volumes of runoff within the Basin, which may exacerbate existing flooding of adjoining neighborhoods; and
- A general loss of rural character in the area.

Sections 10-188 (b) and 10-192(d) of the Leon County Land Development Code address the issue of increased runoff volumes. The latter section requires retention of the post development runoff associated with the 100-year, 24-hour event within the Fred George Special Development Zone (SDZ), which comprises 99.9 acres of the subject properties. Thus, no runoff from any development within the SDZ will affect any adjoining property. Section 10-188, addressing closed basins, requires retention of runoff volumes in excess of the pre-development volume for the 100-year, 24-hour duration storm. Under Sec. 10-188(d), the developer must determine the post-development 100-year event flood elevation within which no on-grade or habitable structures are permitted. In sum, retention requirements may limit the development within the proposed project; existing development at *higher* elevations (i.e., the adjoining neighborhood) will be unaffected.

Strategies for Protection: Strategies identified by staff to protect the most sensitive areas of the site include (1) employing a 163 Agreement or Planned Unit Development (PUD) process, (2) receiving a conservation easement or dedication under the County's development approval processes, and (3) acquiring all or part of the property.

Strategy (1), Enter into a 163 Agreement or Planned Unit Development with the owner/seller. These options could control the density of the property (when developed), provide for a variety of housing types (e.g., attached) so that clustering of housing can be better accommodated on the non-environmentally sensitive areas. Further, such an agreement could provide for donation or dedication on the environmentally sensitive lands. If a larger area were to be desired by the Board, staff would require appropriate direction for negotiations. Such an area could be for buffer, habitat restoration, etc. Such developer agreements may be accomplished without rezoning, but the developer must initiate the request. If a PUD were preferred, it would constitute a rezoning that would come before the Board for approval.

Strategy (2), Receive a conservation easement or dedication under the County's development approval processes: Whether the Board approves the applicant's rezoning request, any development proposal must still comply with the County's environmental regulations. Under Section 10-346 of the Land Development Code, all of the wetlands, waterbodies, and unaltered 100-year floodplains would be set-aside from development. Additional buffers are required for the wetlands and waterbodies. A minimum of 86 acres should be assumed to be addressed by this provision. Generally, these areas are incorporated into a conservation easement dedicated to the County. While development rights are extinguished under such easements, responsibilities of ownership and management of the land remain with the titleholder. The County has limited effective capacity at the staff level to ensure that environmental resources on-site are optimally managed or enhanced consistent with the intent and management plans for these easements. On the other hand, desired conditions and enforcement powers could be scripted into a development agreement (*Strategy 1*).

Strategy (3), Acquire of All or Part of the Property: The property owners and agents have discussed the possibility of selling the land for \$4.2 million, or about \$27,000 per acre. Funds for the purchase of Fred George Basin were not included in the 2007 budget or contemplated in the 5-year Capital Improvement Plan. Consequently, several acquisition proposals have been identified should the Board determine that fee-simple or less-than-fee ownership of the Basin is the best alternative for the County. Since the present adversarial position of the matter could make acquisition and valuation of the property more challenging, should the Board wish to pursue this strategy, the Board should provide direction to staff regarding whether to pursue this option after the rezoning issue is resolved or before a hearing on the matter is held,

For the various acquisition alternatives, a summary table is provided below and details regarding each alternative are provided in Attachment #2. The estimated costs to Leon County are provided in each alternative described below. Where the Notes refer to the Trust for Public Land (TPL), the organization has been included in the development of the required "local match." This means that TPL may advance all or part of the acquisition costs, with the balance to be repaid by Leon County over one or more years.

Table 1. Summary of Acquisition Alternatives

Alternative (see Attachment #3)	Acres to be Acquired	Interest in Property	Estimated Total Cost	Estimated Cost to Leon County**	Notes
(a)	156	Fee Simple	\$4,225,000	\$2,545,000	Routine FCT purchase in FY08
(b)	156	Fee Simple	\$4,225,000	\$2,545,000	Pre-Acquire in FY07; Reimburse County via FCT
(c)	156	Fee Simple	\$4,385,000	\$2,335,000	Repay TPL after FY08
(d)	156	Less-than-Fee	\$2,635,000	\$1,627,000	Repay TPL for Easement after FY08
(e)*	86	Fee Simple	\$1,238,000	\$775,000	Repay TPL after FY07
(f)*	86	Less-than-Fee	\$755,000	\$477,000	Repay TPL after FY07
(g)*	86	Fee Simple	\$0	\$0	Donation
(h)	156	Fee Simple	\$4,200,000	\$4,200,000	Unsuccessful Effort to Secure FCT Grant
(Strategy #2)*	86 (+/-)	Less-than-Fee	\$0	\$0	Via 163 Agreement or PUD

* These alternatives address only the most environmentally sensitive portions of the site.

** If the projects are not funded by FCT, then Leon County will be required fund the total cost

Caveats Regarding All Identified Purchase Alternatives (a-f):

- The Board must determine whether the fee-simple purchase of all or part of the property for a minimum of \$775,000 in local funds (and \$463,000 in state grants, if approved) is more valuable in terms of resource protection than obtaining the minimum interest in the land necessary to protect roughly 86 contiguous acres that contain the majority of the site's environmentally sensitive resources.
- If a project is approved for funding by the FCT Governing Board, the State will only pay the requested percentage of the "maximum approved purchase price." The MAPP is developed through a state-structured and reviewed appraisal process. Should the MAPP be less than what the County (with or without TPL) pays for the land, the County will be responsible for *100% of the difference between the MAPP and the purchase price.* [FCT will still contribute its share.] If the appraisals are close to the purchase price, the impact will be negligible. On the other hand, if the appraisals were (for purposes of discussion) half of the indicated sales price, the County would be responsible for as much as 80% of the purchase price. In all cases, the County should consider using appraisers from the FCT-certified list BEFORE any purchase and instruct them to employ FCT procedures.
- There are no guarantees that the project will be approved by FCT. Competition for funding through that agency has increased. Last cycle, communities requested over \$260 million in support while the agency dispenses roughly \$66 million per year. The many "strong" projects not funded in 2006 will be re-submitted in 2007. FCT criteria are being modified for 2007 and will emphasize urban values, including greenway connectivity and trails. This project, as currently envisioned, will be unlikely to receive additional points under these new or modified criteria. If the entire site were pre-acquired, the County may be committing \$4.2 million for which there may be no reimbursement.

- If purchased, in all cases the County will become the manager of the land. Consideration must be made regarding long-term management and its costs. Ownership will facilitate the implementation of any stormwater management efforts, but decisions will need to be made regarding public access, ecological restoration of the site and possible non-resource based recreational use (e.g., the demand for ball fields versus trails).
- The Board should consider the property tax implications of purchasing all or most of the 156 acres. This issue will be less significant should the Board not rezone the property.
- Any application for funding from FCT should include the residential lot containing Fred George Sink, which is in addition to the subject properties. The owner has been willing to discuss sale in the past, but has not been party to recent discussions about the 156 acres. Inclusion will strengthen the application from the perspective of resource protection. While the Property Appraiser's market value is less than \$18,000, staff conversations with the owner in 1999 suggest that an offer of less than \$80,000 would be unlikely to be considered further. Again, the FCT contribution towards the purchase of this parcel will be limited by the application's requested share of the state-certified appraisal.

Long-term Management

Whether purchased or donated, should the County obtain the environmentally sensitive areas (with or without any supplemental acreage), an assessment of long-term management needs (and costs) should be undertaken. The unique resources of the basin warrant the interests of many parties: County Growth and Environmental Management, Parks and Recreation, Public Works, the City-County Aquifer Protection Program, Blueprint 2000, and the adjoining property owners. Management costs will increase if any active habitat restoration is sought; costs will increase further if any measure of public access is to be provided (trails, parking, signage, and litter control). These costs will not necessarily be borne by the County if the owner retains title, and allocation of management responsibility (and cost) should be part of any negotiation where less-than-fee interest is secured (whether through purchase or dedication). However, if deeded to the county, staff recommends that an endowment from the seller be secured to provide funds for at least the first few years of property management.

Funding

The currently adopted County Budget does not include any funding for this acquisition. Depending upon the amount of an FCT award, the County would need to consider appropriating funds as part of a future budget cycle. Given the amount of funds needed, the appropriated general fund contingency would not be sufficient to support the acquisition.

Options:

1. Do not approve acquisition of subject properties.
2. Direct staff to work with property owners and assess opportunities to protect environmental features throughout the development process and bring recommendations to the Board.
3. Direct staff to pursue acquisition upon dismissal of rezoning request.
4. Direct staff to pursue acquisition in conjunction with processing rezoning request.
5. Board direction.

Recommendation:

Options #1 and #2.

Attachments:

1. Map of Fred George Basin
2. Map of Properties Subject to Rezoning
3. Acquisition Alternatives

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