

Ecological Corridors Comment Summary and Response - Comments received since 06/26/15

- Is there a moratorium on re-zonings until adoption of the ordinance?

Response: *No, but the staff must evaluate all re-zonings for consistency with the Comprehensive Plan.*

- Owns a 15.5 acre property in the corridor on which he has a business. The Corridor covers half of the property. He shouldn't be burdened by this "taking".
 - If he wants to expand his business, will he be able to? Will he be able to add a building without triggering ordinance?

Response: *Yes. If any portion of the expansion is within the Ecological Corridor, and the Ecological Corridor boundaries are not modified pursuant to Section 804.7.D, the expansion in the Corridor would be limited to the maximum square footage allowed by the existing zoning on the property.*

- The other half of the property won't be worth anything.

Response: *Incorrect. The density or intensity on the portion of the property in the Ecological Corridor can be transferred to the remainder of the property or to other areas of the County. Alternatively, the property owner can elect to be compensated by the County based upon the highest and best use of the land per Section 804.10.B.*

- Where are the animals going to cross; they won't cross SR 54?

Response: *Animals can utilize the existing water conveyance structure under S.R. 54 at this location for both wetland and upland travel.*

- How do you access the ordinance online?

Response: *Ordinance is available on County website, on the Environmental Lands Page: <http://www.pascocountyfl.net/index.aspx?NID=609>.*

- How will the ordinance impact property owner's insurance? Who will insure the property covered by the corridor boundary?

Response: *The Ordinance and Comprehensive Plan Map 3-4 do not affect a property owner's insurance. Responsibility for insuring the property generally lies with the underlying fee owner.*

- What about taxes? How does this overlay affect taxes of the property?

Response: *Property taxes are paid by the underlying fee owner. However, property tax reductions or exemptions are available for land encumbered by a conservation easement.*

- How can the county say they want to protect this land and then allow mining?

Response: *Any new mine would require a conditional use, which would be considered an intensity increase under the revised ordinance, and is therefore prohibited in an Ecological Corridor.*

- If a person's property is part of this process, can they apply for a variance?

Response: *The property can apply for boundary modifications pursuant to Section 804.7.D.*

- If part of the property is put in a conservation easement, could the BCC in the future then consider the land surplus and sell it off? That would upset the initial property owner.

Response: *Conservation easements cannot be sold for development. Land deeded to the County could be sold in the future, unless it has placed upon it a deed restriction or reverter (land returns to original land owner if not used for conservation purpose).*

- How many commercial properties/businesses are in the corridor?

Response: *Could be determined with GIS analysis if still needed.*

- Can someone with I2 zoning add to existing business structures without triggering Ordinance?

Response: *Yes. If any portion of the expansion is within the Ecological Corridor, and the Ecological Corridor boundaries are not modified pursuant to Section 804.7.D, the expansion in the Corridor would be limited to the maximum square footage allowed by the existing zoning on the property.*

- Similar comments:

- If you bought property as an investment, you're losing value.

Response: *The land is appraised based upon the highest and best use without regard to any restrictions in the ordinance. In addition, the ordinance does not restrict uses allowed by the existing zoning.*

- It will devalue the land. A smaller pool of people will want to buy the land.

Response: *The land is appraised based upon the highest and best use without regard to any restrictions in the ordinance. In addition, the ordinance does not restrict uses allowed by the existing zoning.*

- If this is triggered by a rezoning, why do you need an MPUD?

Response: *To allow the County to provide the density/intensity transfers and other incentives authorized by Section 804.10 of the Ordinance. Non-MPUD (Euclidean) re-zonings do not allow for this level of flexibility.*

- Was the Habitat Study officially adopted?

Response: *The Board adopted Comprehensive Plan contains required implementation measures for the Habitat Study.*

- Having been through the process, it's not easy to move the boundary.

Response: *The boundary modification process has not yet been adopted. To streamline the boundary modification process, the ordinance and associated guidelines provide additional guidance and clarity for boundary modifications.*

- Why not include Bear Creek to Warner Boyce as a corridor?

Response: *This was not a regional connection as identified in the Habitat Study.*

- Land Value could increase due to the conservation area.

Response: *The County agrees that land adjacent to conservation areas may have a potential increase in value.*

- Is there a difference between the County purchasing the land through ELAMP and utilizing conveyance option through the ordinance? Is an EMP required for both scenarios?

Response: *Yes, there is a difference. Lands acquired through the Ordinance do NOT go through the ELAMP nomination process, and are based on the average of two appraisals. An EMP would only be required for a conservation easement under the ordinance.*

- What if you have a FLU density that is lower than the Zoning classification? If you want to bring the FLU into compliance, does that trigger the ordinance?

Response: *No. The ordinance has been modified to clarify that increases in density and intensity are based upon the existing zoning.*

- Is the 2,200' set in stone? Are all corridors 2,200'?

Response: *Not all corridors are 2,200', and boundaries may be modified pursuant to Section 804.7.D.*

- Who's responsibility is the site security in the corridor?

Response: *The underlying fee owner.*

- Are we already to the point where we can't set a critical linkage that doesn't impact property owners? (Concerned we are already over-developed.)

Response: *All land is owned by some property owner regardless of the level of development.*

- Where is the corridor in West Pasco? There are no coastal corridors.

Response: *The Habitat Study did not identify any coastal ecological/wildlife corridors. The Study did identify a coastal Ecological Planning Unit, which is a target area of the ELAMP program, but is not subject to the regulatory requirements of this Ordinance.*

- How are the corridors going to be managed?

Response: *Land in a conservation easement would be managed through the EMP by the underlying fee owner. Land owned by the County in fee would be managed by the County.*

- What will happen in the Corridors? How will they be used?

Response: *The permitted uses are identified in the Ordinance and Guidelines. See Section 804.8 of the Ordinance and Section 1 of the Guidelines.*

- Not a good idea to put trails in the corridors.

Response: *Any trails that are proposed must protect the ecological integrity of the subject corridor. The location of the trails can also be directed away from existing residential development, where feasible.*

- If someone wanted to put a bike path in the linkage, could they?

Response: Yes

- Would impervious surfaces be considered for a bike path in the corridor?

Response: No. Consistent with the County's prior approval, semi-pervious surfaces could be allowed.

- When the first 18" of topsoil is removed for wetland creation and required to be placed back in the mitigation areas, this resulted in having to excavate deeper sites. It may not always be appropriate to use these soils in a mitigation area.

Response: This issue will be evaluated further when an application to use the Ecological Corridor for wetland creation is submitted.

- Is Penny for Pasco for acquisition only?

Response: Yes

- Where will you get the funds for management?

Response: Park maintenance funds and grants funds.

- If this ordinance is about connectivity, how can you connect when you have major roadways going through every corridor?

Response: Wildlife crossings are being incorporated into the improvements to these roadways.

- Will FDOT have to meet the same guidelines?

Response: Yes

- Why do you think animals will use this corridor when people are in the trails?

Response: Research indicates that wildlife is not adversely affected by passive recreational activities.

- There is a six-lane underpass under the Suncoast Parkway. Why not use that as a wildlife corridor?

Response: The Ecological Corridors are utilizing existing water conveyance structures/wildlife crossings under the Suncoast Parkway.

- If the ordinance does not get approved, will the allocation from Penny for Pasco be given to the Sheriff's office?

Response: No

- **DAVID SMOLKER**

1. While there is language that states so under section 804.2, Exemptions, it is not entirely clear that the entirety of Section 804, the Assessment Measures to Protect Wildlife Habitat in Pasco County, the Guidelines for Critical Linkages and Conservation element Objective CON 1.2's policies calling for implementation of Critical Linkages, which are all incorporated by reference in Section 804, *only apply to lands within designated Critical Linkages and only when the landowner seeks to increase the allowable density or intensity of use by rezoning over that which is currently allowable under existing zoning.* These limitations should be made more explicit and should be characterized as exceptions to the scope of applicability, not as exemptions. This is because exemptions from regulations presuppose that the regulations apply and are generally construed against the landowner's ability to qualify for the exemption. There is a great potential for "back-door" application of these various regulatory mechanisms beyond the narrow scope originally intended.

Response: *The ordinance intentionally includes land outside the linkage so that the County can provide the incentives listed in Section 804.10.A.6. These incentives are intended as a form of compensation for the Ecological Corridor Land.*

2. The term "increase in density or intensity" should be defined in such a way as to make clear that such increase is to be measured based on consideration of the overall parcel(s) proposed for development as a whole since it is possible that properties may be aggregated and densities and intensities of use clustered for development purposes.

Response: *A definition of "intensity or density increase" has been included.*

3. Section 804.2. Applicability, mandates that increases in density or intensity be accomplished by MPUD rezoning and that all lands owned or controlled by the same landowner that are within the linkage or that are contiguous or nearby within 1/4 mile to be included within the MPUD rezoning. This is an overreaching land grab that forces a landowner to rezone property that it has no intention, need or plan to change the density or intensity of use on.

Response: *The ordinance intentionally includes land outside the linkage so that the County can provide the incentives listed in Section 804.10.A.6. These incentives are intended as a form of compensation for the Ecological Corridor Land.*

4. Section 804.2 states that Section 804 applies to any project that is subject to Objective CON 12 of the Conservation Element, as amended. Objective CON 12 contains a Policy 1.2.2, Permitted Uses/Development Standards, subsection i. of which identifies implementation measures that

would require development and redevelopment projects adjacent to critical linkages to demonstrate site planning and orientation that *maximizes* preservation and function of the critical linkage. This effectively will treat landowners not seeking to increase density or intensity of use but whose lands are adjacent to but not within a critical linkage to be treated as if their lands were within a linkage regardless of whether they seek to increase density or intensity of use or develop in accordance with the existing zoning or development approvals.

Response: *The cited sentence in Section 804.2 has been deleted. In addition, to address this concern Section 804.11 was deleted in its entirety.*

5. Section 804.2.C. requires landowners seeking to exercise their constitutional rights to claim compensation for a taking or to seek relief under the Burt Harris to act to first exhaust a time consuming, unduly burdensome series of administrative remedies. First the landowner must seek to transfer density. If the landowner is unable to transfer density, the landowner can seek compensation based on the average of two appraisals. If the parties can't agree to the average of the two appraisals, then the issue is submitted to a third appraiser of the County's choosing for his or her opinion. If the parties disagree with the third appraiser's opinion, then the matter must be appealed to the DRC. If the landowner doesn't agree with the DRC's decision, he or she must appeal to the County Commission (hardly an impartial arbiter of how much the County should pay in compensation). According to subsection 804.2.C, this entire process must be exhausted before a landowner can exercise their constitutional and statutory rights to obtain compensation. This is not reasonable or fair. (See additional comments below)

Response: *Section 804 has been modified to clarify and streamline the administrative remedies. Specifically, the compensation appeal section has been modified to allow the appellant to avoid the appeal to the third party appraiser and/or DRC. In addition, Section 804 has been modified to clarify that the density transfer is not mandatory.*

6. Section 804.6 states that all development applications "shall be processed" as MPUDs. This should be clarified to apply only to development applications seeking to increase density or intensity of use within a linkage.

Response: *The requested change has been made.*

7. Section 804.8, Permitted Uses within Critical Linkages should be clarified to make clear that the restriction only applies to allowable uses within critical linkages after approval of an increase in density or intensity of use.

Response: *The requested change has been made.*

8. Section 804.9, Roads and Utilities within Critical Linkages should likewise be clarified as in 6 above.

Response: *The requested change has been made.*

9. Section 804.10 mandates density transfers in lieu of compensation. Density transfers should be an option, not a requirement unless the landowner is "unable" to transfer density. Moreover, the term 'unable' is vague.

Response: *This section has been modified to make density transfers optional. Specifically, the Code was revised to state, "...unable or unwilling..."*

10. Section 804.12, Interests in Critical Linkage Land, subsection B, requires delivery of any deed or conservation easement before issuance of site development permit. This is unworkable as presently written because it allows the County to keep the property or easement even if the development never actually occurs. If development does not occur, the County should deed back the property or disclaim the easement.

Response: *This section has been modified to require re-conveyance of the deed to the original property owner, or extinguishment of the easement, if all development entitlements and approvals have expired, or have been rescinded, and if such entitlements/approvals have not been used.*

11. The Staff PowerPoint entitled Land Development Code, Section 804, Critical Linkages, designates as "Agricultural Reserve," a large area from Cypress Creek to the Green Swamp designates a large swath. It also designates a number of other swaths. These swaths are not a designated as Critical Linkages, and are not subject to section 804. As such it is misleading. The appropriate map to show is the Critical Linkage Map.

Response: *Slide has been removed.*

- **POWERS DORSETT**

As we pointed out in our letter to you of June 4, 2015, the Bell Fruit/Zeneda subarea policy, Policy FLU 7.1.10, established the critical linkage boundaries on our property. Furthermore, pursuant to our sub-area policy, uses within the critical linkage on our property are governed by our MPUD since there was no "Critical Linkage Ordinance" adopted at the time our MPUD application was submitted. Your proposed ordinance needs at a minimum to contain a provision that in the case of properties where boundaries have been established through the Comprehensive Plan and where the permitted uses have been otherwise established through procedures set forth in the Comprehensive Plan such properties are not "subject to any provisions of Section 804". I would think this should be a fairly simple fix in the proposed ordinance.

Response: *requested revision has been made. See revised Section 804.3.A.*

We are surprised to see that you have revised the name of Critical Linkages to “Ecological Corridors”, especially in view of the fact that since at least 2002 the areas have been referred to as Critical Linkages. We note that the Glatting Jackson study as well as the Comprehensive Plan contain the terminology “Ecological Planning Units” which is a different concept than “Critical Linkages”. To introduce this term “Ecological Corridors” which is confusingly similar to the established term “Ecological Planning Units” makes little sense to us. We therefore suggest you stick with “Critical Linkages” since that term has been used throughout an untold number of documents and regulations for over a decade.

Response: *The name change was at the request of Commissioner Wells and other commenters to clarify the specific purposes of the land areas. To address any potential confusion about the name, Section 804.1.B. has been added.*

- KING HELIE

804.2.A and 804.3.A&B:

Development Applications -Clarification is needed. According to LDC Section 401.1.B ‘Use Permits’ are related to zoning, and ‘Site Development’ permits include preliminary plans, preliminary site plans, and other permits necessary for land development. What exactly is meant by Development Applications? (*Note: Refer to LDC Section 401. 1.B – Permit Types & Applications*)

Response: *For Section 804.2.A, the phrase, “Development Applications” refers to the specific development applications listed in that section. For Section 804.3.A, the phrase “development approvals” refers to the specific Development Approvals listed in that section. For Section 804.3.B, the phrase “development applications” refers to any application for development as that term is defined in the LDC. However, this section has been revised to clarify that building permits and certificates of occupancy do not need to be forwarded to the ELAMP Manager.*

804.3.A

Exemptions for projects or parcels with existing zoning should be clarified by a statement that they are exempt from Section 804 **and** the Guidelines in their entirety.

Response: *The Guidelines only apply where specifically stated in Section 804. They do not have independent regulatory effect.*

Further, if parcels having a Future Land Use (FLU) with sufficient density and intensity for an owner’s uses, are submitted for re-zoning to the allowable density and intensity consistent with that FLU, are they exempt from the ordinance?

Response: *No, if any portion of the parcel is within the Ecological Corridor.*

804.4

The Glatting Jackson 2002 Assessment of Measures to Protect Wildlife Habitat, as amended is stated as the basis for the Critical linkage, and the “approximate boundaries” for each corridor are listed in 804.5.A.1-7. Where can the amendments be found?

Response: The amended study maps are being incorporated into revised Map 3-4 of the Conservation Element. These can be found at <http://www.pascocountyfl.net/index.aspx?NID=609>.

804.5.A

Ecological Corridors have been “identified to maintain a **contiguous network**”. Staff has stated that the parcels that have been **already designated** (either by acquisition, or by rezoning or FLU adoption) are not listed, and therefore are not shown on any cumulative map. They should be identified and mapped.

Response: The purpose of Map 3-4 and the Section 804 exhibits is to determine the locations where the ordinance applies. It is not intended to depict the locations of the entire ELAMP inventory.

804.7.B & C

Boundaries: The phrase ‘retained by the applicant’ has been deleted, but who will bear the cost of preparation of a **legal description** by a registered Florida land **surveyor**?

Response: The County, unless the applicant desires to refine the boundaries prior to the conveyance of the conservation easement or deed.

807.D.1.a.-d

Modification of the boundaries: Modification is permitted if the width is maintained. How this could be accomplished if a parcel’s property lines limit the ability to maintain the required 550’, 1,100’, or 2,200’ width? What would an adverse affect to an adjacent property owner be? What is the difference between continuing to connect publicly owned parcels and continuing to maintain a contiguous network?

Response: This could be accomplished by shifting the boundaries onto another property owners property. Adverse effect would have to be determined on a case by case basis, after consultation with the adjacent property owner. The contiguous network requirement also looks at the ecological composition of the connection.

804.7.D.2

Reduction due to existing density: Needs to be clarified, and if existing residential development density qualifies, the wording should be revised from **may** to ‘**shall** be excluded from the corridors’. (Example: Quail Ridge 1 acre lots)

Response: Revised Section 804 has moved this boundary modification to the exemption section and has made the exemption mandatory.