



NEIGHBORHOOD DEVELOPMENT SERVICES DEPARTMENT

Planning Division

MEMO

Heron Creek DRI

To: Honorable Mayor and Members of City Commission

Thru: Peter Lear, CPA, CGMA, City Manager

Thru: Jason Yarborough, ICMA-CM, Assistant City Manager

Thru: Frank Miles, MPA, Director, Neighborhood Development Services

From: Nicole Galehouse, Planning Manager

Date: February 11, 2020

This memo is to inform the City Commission that City staff has researched the requirements of the Heron Creek Development of Regional Impact (DRI) to determine the status of the requirements of the Scrub Jay Management Plan (Management Plan).

The goal of the Management Plan is to restore scrub habitat conditions of the Florida scrub jay as well as to modify and enhance existing scrub habitat. The Management Plan recognizes three distinct management areas: two potential areas located in the south in need of habitat restoration and one area located in the northwest in need of modification and enhancement. The Management Plan acknowledges that most of the existing and potential scrub habitat is overgrown due to fire suppression, rendering it uninhabitable by the Florida scrub jay. To remedy this, it stipulates a three-step implementation to these management areas:

- **Scrub Restoration:** Cutting all vegetation to near ground level and conducting a controlled burn once the material is dry. The use of a “tree cutter” is advised to prevent significant disturbance to the soil and subterranean rhizomes. Initial restoration treatment is recommended to be conducted between December and February as to afford preferential conditions for burning and to reduce impacts to Florida scrub jay acorn harvesting and nesting activities.
- **Scrub Maintenance:** After the initial phase of restoration treatment, woody shrubs will be maintained at variable heights between one and three meters. Scrub oaks that exceed this height threshold will be mowed down, and the remaining debris will be burned or mechanically removed without causing a disturbance to the soil. The Management Plan advises that controlled burns over a broad area of the cut down vegetation where they lay is both beneficial to the ecosystem and cost effective.
- **Maintenance Schedule:** Certified burn personnel will attempt an initial burn. Fire breaks will be constructed to insure fire containment within the management area. A prescribed maintenance burn program will be implemented, and the duration between burns will not exceed 10 years.

Monitoring reports were supposed to be submitted every 6 months for the first 3 years, and then every five years after that in conjunction with management activities. Staff has not been able to find documentation of monitoring. The Biennial Reports up to 2008 indicate that the requirements were being complied with, at which point they stated that there was a conflict with the City adopted 2007 Myakkahatchee Creek Greenway Plan. In each subsequent Biennial Report submitted, they consistently responded that they would coordinate with the City on this item and address it in the next Biennial Report.

Concerns about this issue were raised in 2016, at which point the applicant provided an evaluation of the property from Ian Vincent & Associates Environmental Consulting Services (IVA). The analysis of the Management Plan by IVA cited that during a survey conducted by W. Dexter Bender and Associates in 2002, "...no Florida scrub jays were observed either on-site or in the immediate vicinity of the project. Additionally, the on-site habitat had become so overgrown that it was effectively impassable and no longer suitable for utilization by the species." IVA concluded in this study that, "there is no ecological or biological justification for requiring that the plan [Management Plan] be implemented." Although City staff notes the recommendation of IVA to, "eliminate the condition which required implementation of" the Management Plan as recommended by IVA, the actual removal of these requirements would need to take place through an amendment to the DRI.

The Management Plan also stipulates the requirement that an annual monitoring report for the gopher tortoise is to be provided to the City. The monitoring report will include descriptions of gopher tortoise activity on-site as well as native vegetation including: oak height, aerial coverage of scrub oaks, percent cover of exotic species, and percent and number of bare, sandy patches. The monitoring period will occur during the fall scrub jay monitoring period. An assessment of management success must be provided in the monitoring report base upon each vegetation and scrub jay survey

In its investigation into the requirements of the Scrub Jay Management Plan, City staff has noted that the Biennial Reporting Requirements (Section 3.03 of Ordinance No. 2011-33, Attachment 1 of Ordinance No. 2013-16) have not been met. The latest Biennial Report on file covers a reporting period of November 1, 2012 to October 31, 2014. The applicant has been notified of this deficiency as well as the enforcement guidelines enumerated in Section 3 of Ordinance No. 2013-16, and that any modification of the DRI requirements would require a Notice of Proposed Change.