

AN ORDINANCE AMENDING THE PASCO COUNTY LAND DEVELOPMENT CODE; AMENDING SECTION 522 MASTER PLANNED UNIT DEVELOPMENT DISTRICT, REQUIRING ELECTRONIC FORMAT FOR PROJECT BOUNDARY; CREATING SECTION 705 CRITICAL LINKAGES, ADOPTING THE ASSESSMENT OF MEASURES TO PROTECT WILDLIFE HABITAT IN PASCO COUNTY, AS AMENDED, DESIGNATING LAND AREAS AS CRITICAL LINKAGES FOR WILDLIFE, INDICATING PROJECTS SUBJECT TO SECTION 705, PROVIDING A METHOD FOR DETERMINING CRITICAL LINKAGE BOUNDARIES, PROVIDING FOR CERTAIN USES WITHIN CRITICAL LINKAGES, PROVIDING FOR TRANSFER OF DENSITY CREDITS AND COMPENSATION, ALLOWING FOR TRANSITIONAL USES, PROVIDING FOR AN ENVIRONMENTAL MANAGEMENT PLAN; PROVIDING FOR SEVERABILITY; REPEALER; INCLUSION IN THE CODE; AND EFFECTIVE DATE.

WHEREAS, there exists a significant amount of wildlife and wildlife habitat in Pasco County; and

WHEREAS, Pasco County entered into a Settlement Agreement in August 2000 with various litigants that required modifications to the Comprehensive Plan, including the conservation element; and **(CON p. 3-1)**

WHEREAS, the Pasco County Board of County Commissioners (County Commission) commissioned a study to assess measures to protect wildlife in Pasco County; and

WHEREAS, in March 2002 the County Commission accepted the study, *Assessment of Measures to Protect Wildlife Habitat in Pasco County (Habitat Study)*, as amended, which recommends a regional approach for wildlife protection by designating Critical Linkages which connect public lands and wildlife habitat protection, and identifies seven (7) Critical Linkages between public lands to be set aside for conservation and habitat preservation; and

WHEREAS, the Board of County Commissioners appointed an Environmental Lands Acquisition Task Force (ELATF) that assessed options for a land acquisition program to enhance the legacy of natural land acquisition and conservation within the County; and **(CON p. 3-3)**

WHEREAS, ELATF recommended applying a portion of a sales tax proposed by referendum, referred to as "Penny for Pasco," to fund natural lands acquisition. Pasco County voters approved the referendum, which will provide approximately \$40 million in revenue for acquisition of natural lands through 2015; and, **(CON p. 3-3)**

WHEREAS, by Resolution No. 04-233, the Board of County Commissioners established the Environmental Lands Acquisition and Management Program (ELAMP), appointed an Environmental Lands Acquisition Selection Committee (ELASC), and established procedures for acquiring natural lands through nomination, scoring criteria and purchase; and **(CON p. 3-4)**

WHEREAS, lands nominated for acquisition and enrollment into the ELAMP program require nomination by interested parties and a willing seller. Nominated lands

are reviewed by the ELASC for consistency with the goals, objectives, and policies of the ELAMP, ecological value based on site scoring criteria, and other factors such as endangerment potential, additional funding sources, and public interest. Lands recommended to be added to the Acquisition List by the ELASC are presented to the County Commission for final decisions on acquisition. The County has hired an Environmental Lands Program Manager and Environmental Lands Program Coordinators to work with the ELASC and oversee the acquisition and long-term management of lands acquired by the County and other resource partners. Long-term strategies for natural resource management on these parcels will be coordinated so that natural vegetative communities, wildlife populations, and linkages to other conservation areas will be protected or enhanced; and **(CON p. 3-4)**

WHEREAS, ELAMP has numerous projects under review and has voluntarily acquired 332 acres to date, placing such acres into Conservation for the citizens and future generations of Pasco County; and

WHEREAS, property adjacent to or near lands preserved in their wild state is more desirable in a real estate market; and

WHEREAS, the Conservation Element of the Pasco County Comprehensive Plan adopted in June 2006, as amended, Policy CON 1.2.1 identifies the Critical Linkages as delineated in the *Habitat Study*, and Policy CON 1.2.2 includes a requirement to amend the Land Development Code to define use limits and enforcement of development standards regarding Critical Linkages.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pasco County, Florida, as follows:

SECTION 1. WHEREAS CLAUSES

The WHEREAS Clauses above are a true and accurate reflection of the intent of the County Commission and are incorporated by reference and made part of this Ordinance.

SECTION 2. ORDINANCE

ARTICLE 500 ZONING STANDARDS

Section 522 shall be amended to read:

522.2 A. 2. General requirements for master planned unit development.

c. Size requirements: Master planned unit developments that contain only residential uses must be a minimum of five (5) acres, except where any part of the project or parcel has boundaries that include any Critical Linkage or any located in the coastal high hazard area where there is no minimum size.

522.5 Submittal requirements for MPUD master planned unit developments.

A. The applicant for an MPUD master planned unit development approval (hereinafter referred to as "applicant") shall provide the reviewing county staff with a master planned unit development plan, which shall include the following information with all map

products at a scale of one inch equals 200 feet, or as agreed upon by the zoning/code compliance administrator.

1. *General requirements.*

a. Location map showing the relationship between the area proposed for development and surrounding developments or lots on a current aerial photograph, geodetic mapping section, or satellite photo, which in no case shall be older than that available at the Pasco County Property Appraiser's office, with boundaries of development and roadway layout delineated. The location map shall show all functionally classified roadways established by the Pasco County Comprehensive Plan 2025 Future Roadway Functional Classification Map and Highway Vision Plan within one mile of the development boundary.

b. A boundary sketch and legal description signed and sealed by a surveyor describing the size and location of the tract to be subdivided, and an electronic version of the boundary on CD, in AutoCAD format.

9. MPUD submittals that consist of less than five (5) acres shall be subject to submittal requirements for a Euclidian rezoning as provided in the application for rezoning as may be modified time to time.

ARTICLE 700. STANDARDS FOR SITE WITH SPECIAL CHARACTERISTICS

A new Section, 705, shall be created to read

705. Critical Linkages

705.1 Findings

A natural environment, including wildlife habitat, is essential to quality of life in Pasco County. Intact ecosystems, large and primarily undisturbed public lands, and protected wildlife habitat are increasingly rare as Pasco County develops into an urban and suburban landscape. Protecting these lands and the species these lands support, and are able to support, is a priority.

Protecting these lands must include the Critical Linkages that will maintain connectivity in an altering landscape between existing conservation lands, or parcels in public ownership that provide natural resource functions, including wetland and floodplains protection, and facilitation of the flow of genetic material within species.

705.2 Intent

It is the intent of the Board of County Commissioners to protect, conserve, enhance and manage the natural land and water resources of Pasco County through a regional conservation strategy that protects the most significant natural resources of the County through a combination of standards for specified Critical Linkages, land acquisition, land use strategies, management and preservation of public lands, land use policies, wetlands, and water resources. Protection of natural communities includes uplands and wetlands, connection of natural linkages, conservation of viable populations

of native plants and animals, protection of habitat for listed species, protection of water resources and wetland systems, and unique resources. **(GOAL 1 & CON 1.1)**

705.3 Adoption of Habitat Study

The *Assessment of Measures to Protect Wildlife Habitat in Pasco County*, March 2002, as amended, is hereby adopted by the Board as the basis for the Critical Linkage boundaries and regulations as set forth herein.

705.4 Relation to Comprehensive Plan

This Section is intended to implement Objective CON 1.2, Critical Linkages, of the Conservation Element of the Pasco County Comprehensive Plan adopted in June 2006, as amended.

705.5 Critical Linkage Designations

A. The Critical Linkages defined below have been identified to maintain a contiguous network of wildlife habitat between existing public lands to protect and conserve native vegetative communities, endangered and threatened species, and natural functions of wildlife habitats, including wetlands. **(CON 1.2.1)**

B. Map 3-4 of the Conservation Element of the Comprehensive Plan (Exhibit 705 A of this Section) shall establish the boundaries of lands within Pasco County that are Critical Linkages, subject to the boundary refinement and deviation criteria in Section 705.8. The approximate boundaries are:

(1) North Pasco (Starkey) to Crossbar

This Critical Linkage follows the Pithlachascotee River and begins at the northern County line along the Masaryktown Canal to the Crossbar Ranch wellfield. Crews Lake Park lies approximately midway between the north Pasco and Crossbar wellfields and is included in the Critical Linkage. Large portions of this linkage are not currently in public ownership. The overall distance between the public lands to be interconnected requires a width of 2200 feet to provide functionality for this Critical Linkage. The Linkage contains flatwoods, mesic hammocks and forested wetlands associated with the Pithlachascotee floodplain, including the extremely dynamic hydrologic basin associated with Crews Lake, but also will preserve portions of the historic Sandhill communities as it approaches the Crossbar Ranch. The essential features are the flatwoods, mesic hammocks, forested wetlands, the Pithlachascotee floodplain and xeric uplands on either side of the Masaryktown Canal.

Boundary Description: Being one thousand one hundred (1,100) feet on each side of the centerline of Pithlachascotee River and its associated wetlands, flatwoods and uplands, extending from the Starkey Wilderness Park easterly boundary to the Cross Bar Ranch westerly boundary, conceptually indicated on Exhibit 705 A-1 of this Section.

(2) Crossbar to Connerton

The Conner Preserve, formerly known as the Connerton purchase, serves as the nexus for three of the seven Critical Linkages. The Crossbar

to Connerton connection is a 2200-foot-wide corridor that will preserve a broad expanse of herbaceous marshes in the west central portion of the County. Much of the area encompassed by the Crossbar to Connerton Critical Linkage is comprised of seasonally flooded sandhill and flatwoods marshes. The mosaic created by the presence of these marshes, flatwoods and imbedded adjacent uplands provides for the preservation of seasonally flooded, mesic and xeric habitats that will be used by a wide variety of wildlife. The essential features are the Sandhill, marsh and flatwood habitats which create a unique mix of diverse habitat types within the confines of this linkage.

Boundary Description: Being one thousand one hundred (1,100) feet on each side of the centerline of the Category 1 wetlands, extending from the Conner Preserve northerly boundary to the Al Bar Portion of Crossbar Ranch southerly boundary, conceptually indicated on Exhibit 705 A-2 of this Section.

(3) North Pasco (Starkey) to Connerton

Throughout much of its approximately four-mile course, this Critical Linkage incorporates the forested wetlands systems associated with Five Mile Creek. There is an existing large, open span undercrossing at the juncture with the Suncoast Parkway. An additional large mammal undercrossing is designed for this Linkage's juncture with U.S. 41 providing connectivity with the Conner Preserve. Much of the western portion of this 2200-foot-wide corridor is comprised of forested wetlands and the floodplain associated with Five Mile Creek. This linkage includes areas of historic flatwoods habitat that have been modified to agricultural and silvicultural use. The flatwoods communities can be restored as part of the preservation of this Linkage, but several areas of relic Sandhill also exist within the confines of the recommended Linkage boundaries enhancing its diversity and value as habitat. The essential features within the confines of the Critical Linkage are the forested wetlands and floodplain associated with Five Mile Creek and the small, imbedded upland habitats within the limits of the Critical Linkage boundary.

Boundary Description: Being one thousand one hundred (1,100) feet on each side of the centerline of the Five Mile Creek wetlands and associated uplands, extending from the Starkey Wilderness Park easterly boundary to the Conner Preserve and Connerton Conservation Easement westerly boundaries, conceptually indicated on Exhibit 705 A-3 of this Section.

(4) Cypress Creek to Connerton

The required 550 foot width of this Critical Linkage is based on its relatively short distance between the Conner Preserve and the Cypress Creek Wellfield. The majority of this Linkage includes wetlands

associated with Cypress Swamp that were historically associated with the mosaic of wetlands in the northeast corner of the Connerton Ranch. This Critical Linkage crosses Ehren Cutoff (S.R. 583) and the planned design of a improved, realigned roadway in the future must incorporate a large mammal crossing to provide linkage continuity and connectivity from the Cypress Creek wellfield to the Conner Preserve. The essential features is establishing and preserving the connectivity between the Conner Preserve and the Cypress Creek Wellfield employing the wetlands and imbedded uplands at the nearest point between the two areas of public lands.

Boundary Description: Being two hundred twenty five (225) feet on each side of the centerline of the Category 1 wetlands, extending from the Conner Preserve easterly boundary to the Cypress Creek Wellfield northwesterly boundary, conceptually indicated on Exhibit 705 A-4 of this Section.

(5) Starkey to South Pasco

This Critical Linkage extends south of the SWFWMD lands along South Branch, a tributary of the Anclote River, ultimately to the connection with Brooker Creek in Hillsborough County. Much of this Linkage has been impacted by development. Due to the urban nature of the connection south of the SWFWMD lands, and the relatively short distance of this Linkage, the required width is 1100 feet with a 550-foot-wide extension to the east for a necessary connection to the South Pasco wellfield. The essential features are the South Branch tributary, its associated floodplain and the wetlands, flatwoods and small upland areas within the confines of the Critical Linkage.

Boundary Description: Being five hundred fifty (550) feet on each side of the centerline of the South Branch and associated wetlands, flatwoods and uplands, including portions of the floodplain, extending from the Starkey Wilderness Park southerly boundary to the Pasco-Hillsborough County line northerly boundary and two hundred twenty five (225) feet on each side of the centerline of the South Branch tributary to the South Pasco Wellfield westerly boundary, conceptually indicated on Exhibit 705 A-5 of this Section.

(6) Cypress Creek to Cypress Bridge

This relatively short Critical Linkage is urban in nature but is essential to facilitate dispersal of wildlife through the surrounding altered landscape. This Linkage is vitally important to preserve habitat and connectivity through the urbanized "bottleneck" between the large conservation lands associated with Cabbage Swamp and Cypress Swamp and the conservation lands in Hillsborough County. The preservation and protection of this Linkage is very important because of the impacts associated with S.R. 54/Interstate 75 transportation corridor and associated

development along its course. However, preservation of the remaining forested wetlands associated with Cypress Creek and its floodplain will provide a minimal sustainable area of valuable natural habitat. The essential features are the protection of the Cypress Creek channel and its associated floodplain as a designated Outstanding Florida Water; protection of the surface water resource; and preservation of the remaining forested wetlands within the defined Critical Linkage boundaries.

Boundary Description: Being two hundred seventy five (275) feet on each side of the centerline of Cypress Creek, and increasing to being five hundred fifty (550) feet on each side of the center line of Cypress Creek, extending from the Cypress Creek Wellfield southerly boundary to the Pasco-Hillsborough County boundary, conceptually indicated on Exhibit 705 A-6 of this Section.

(7) Hillsborough River to Green Swamp

Extensive purchases by the SWFWMD have already taken place along the proposed Hillsborough River Critical Linkage. Although C.R. 39 currently crosses the Hillsborough River, the protection of the river and its floodplain in this portion of the County has been prioritized by the SWFWMD. For the most part, this portion of the river is surrounded by agricultural uses, but continues to support a sufficiently wide forested floodplain throughout the Critical Linkage. Because of the importance of the Hillsborough River surface water resource and the habitat value of, the remaining forested floodplain, the Critical Linkage is established at a width of 2200 feet. The essential features are the forested areas associated with the Hillsborough River floodplain, the 100 year floodplain and continuity with the existing SWFMD lands.

Boundary Description: Being one thousand one hundred (1,100) feet on each side of the centerline of the wetlands and floodplains associated with the Hillsborough River, extending from the Pasco-Hillsborough County line northerly boundary to the Green Swamp westerly boundary, conceptually indicated on Exhibit 705 A-7 of this Section.

705.6 Projects Subject to this Section

A. Building Permits or Applications in Accord with Existing Zoning

Any application for building permits for new buildings or submittals pursuant to Section 306 in accord with the zoning district in effect as of the effective date of this Section that has boundaries that include any Critical Linkage shall not be subject to this Section. Development in accord with existing zoning may take place on Critical Linkage land. The density or intensity is not required to be transferred off the Critical Linkage land. However, such applications or submittals shall be distributed by the County to the Environmental Lands Program Manager for review and consideration for contacting the landowner to inquire about his/her interest in voluntary nomination of the property for

acquisition by the Environmental Lands Acquisition and Management Program. Such applications or submittals shall not be denied or delayed based on the Critical Linkage, unless the applicant agrees otherwise, or unless such applications are in violation of any existing conditions relating to any Critical Linkage.

B. Zoning, DRI and Comprehensive Plan Applications Not Increasing Density or Intensity

Any zoning amendment application, DRI application, or comprehensive plan amendment application that does not propose to increase density or intensity that has boundaries that include any Critical Linkage shall not be subject to this Section. Development in accord with existing zoning may take place on Critical Linkage land. The density or intensity is not required to be transferred off the Critical Linkage land. However, such applications shall be distributed by the County to the Environmental Lands Program Manager for review and consideration for contacting the landowner to inquire about his/her interest in voluntary nomination of the property for acquisition by the Environmental Lands Acquisition and Management Program. Such applications shall not be denied or delayed based on the Critical Linkage, unless the applicant agrees otherwise, or unless such applications are in violation of any existing conditions relating to any Critical Linkage.

C. Zoning, DRI and Comprehensive Plan Applications Increasing Density or Intensity

Any submittal for any zoning amendment application, DRI application, or comprehensive plan amendment application that proposes an increase in density or intensity and that has boundaries that include any Critical Linkage shall be subject to this Section, and all density or intensity must be transferred off any Critical Linkage lands. All such projects are not eligible for any zoning district other than MPUD, or conservation Subdivision MPUD (**CON 1.2.2 a**), and the MPUD application must include all lands within the Critical Linkage that are owned by the applicant or a related landowner, and all lands outside the Critical Linkage that are necessary to achieve any density transferred pursuant to Section 705.11. For purposes of this subsection, the term “related landowner” shall include a relative, as that term is defined in Section 112.3143(1)(b), Florida Statutes, a partnership in which any of the same persons or entities are partners, a corporation in which any of the same persons are officers or directors, or a similar related entity as determined by the County Administrator, or his designee. Specific MPUD application or submittal requirements may be waived or deviated from in accordance with the criteria in Section 301.2.B. of this Code.

D. Inordinate Burden and Takings

If any landowner believes that the application of any requirement of this Section to any project results in an inordinate burden, as that term is defined in Section 70.001, Florida Statutes, or a taking under state or federal law, such landowner may seek a variance from such requirement(s) in accordance with Section 316 of this Code. Claims for common law or statutory vesting against the requirements of this Section shall be addressed in accordance with Section 109 of this Code.

705.7 Critical Linkage Boundaries at Time of Application

A. MPUD Submittal

(1) For any MPUD submittal, the County Administrator, or his designee, shall determine if the project includes a Critical Linkage based on the electronic format of the legal description of the project boundary and the Critical Linkage boundaries as indicated in subsection 705.5.

(2) Such determination shall be made as a technical review comment in accord with Section 522.5 A 3 (a). The boundaries of the Critical Linkage shall be determined based on the GIS data indicating the appropriate Exhibit referenced in 705.5. Such boundary shall be used to determine the Critical Linkage area to determine the Transferable Density indicated in 705.11, unless the applicant wishes to deviate from such boundary, in which case 705.8 shall be followed.

(3) The area that is determined as the Critical Linkage shall be preserved in perpetuity, subject to the permitted uses set forth in this Section, and indicated on the MPUD plan as Conservation.

B. Comprehensive Plan Amendment Submittal

(1) For any comprehensive plan amendment submittal, the County Administrator, or his designee, shall determine if the project includes a Critical Linkage, based on the electronic format of the legal description of the project boundary and the Critical Linkage boundaries as indicated in Section 705.5.

(2) Such determination shall be made at the time of content review. If it is determined the project is subject to the requirements of this Section, the boundaries of the Critical Linkage shall be determined based on the GIS data indicating the appropriate Exhibit referenced in 705.5. Such boundary shall be used to determine the Critical Linkage area to determine the Transferable Density indicated in 705.11, unless the applicant wishes to deviate from such boundary, in which case 705.8 shall be followed.

(3) The area that is determined as the Critical Linkage shall be reclassified as Future Land Use Conservation Lands (CON) on the application.

C. DRI Submittal

(1) For any DRI submittal, the County Administrator, or his designee, shall determine if the project includes a Critical Linkage, based on the electronic format of the legal description of the project boundary and the conceptual Critical Linkage boundaries as indicated in Section 705.5.

(2) Such determination shall be made at the time of content review. If it is determined the project is subject to the requirements of this Section, any zoning change must be an MPUD zoning submittal in accord with Section 522. The boundaries of the Critical Linkage shall be determined based on the GIS data indicating the appropriate map referenced in 705.5. Such boundary shall be used to determine the Critical Linkage area to determine the density incentive and transfer indicated in 705.11, unless the applicant wishes to deviate from such boundary, in which case 705.8 shall be followed.

705.8 Methodologies for Establishing Critical Linkage Boundaries on the Ground

A. The Critical Linkage boundaries shall be defined by the Pasco County GIS-Environmental Lands/Critical Linkage Exhibits 705 A-1 through A-7 of this Section and further refined through preparation of a legal description using state-approved mapping standards by a registered Florida land surveyor retained by the applicant.

B. The following methodology shall be employed in determining a Critical Linkage boundary on the ground: Using the appropriate Pasco County GIS-Environmental Lands/Critical Linkage Exhibits 705 A-1 through A-7, the coordinates shall be translated into the Florida State Plane Coordinates to identify the boundary of the Critical Linkage. This boundary shall be indicated by monumentation on the ground. A legal description shall be prepared by a registered Florida surveyor for review and confirmation, which may include field review, by the County Administrator, or his designee, at the time of granting a deed or conservation easement indicated in 705.13. The bearings shown in the legal description shall be referenced to grid and on state plane coordinates based on the Pasco County Primary Horizontal Control Network.

C. In the event an applicant wishes to modify the boundaries established in A of this subsection, the applicant shall establish the following:

(1) Any movement of the location of the Critical Linkage:

(a) Does not reduce the width of the Critical Linkage, and

(b) Does not affect the width of the Critical Linkage off of the subject property, and

(c) Does not negatively affect any adjacent property owners, and

(d) Continues to connect the public parcels, and

(e) Continues to include the essential features as indicated in Section 705.5; or

(2) A parcel in the Critical Linkage is highly disturbed and along the edge of the Critical Linkage; or

(3) A parcel in the Critical Linkage has existing residential development density greater than one dwelling unit per acre.

D. In the event the County and the applicant are unable to agree on the establishment of any of the factors in subsection C., the County or the applicant may request an appeal which shall consist of the following: 1) appellant's payment of the applicable appeal fee; and 2) referral of the issue(s) in dispute to a third party consultant chosen by the County, in consultation with the applicant, who shall make a determination on the issue(s) in dispute within thirty working days of the date of the referral. If either party disagrees with the determination made by the third-party consultant, they may appeal the issue(s) in dispute to the DRC. The decision of the DRC may be appealed to the Board of County Commissioners pursuant to Section 317 of the LDC. All appeals shall be submitted through the Zoning Administrator, or his designee.

E. A legal description shall be prepared by a registered Florida surveyor for review and confirmation, which may include field review, by the County Administrator, or his designee at the time of granting a deed or conservation easement indicated in 705.13. The bearings shown in the legal description shall be referenced to grid and on state plane coordinates based on the Pasco County Primary Horizontal Control Network.

705.9 Roads and Utilities within Critical Linkages

A. Local Roads (CON 1.2.2d)

Local roads shall be prohibited within the boundaries of any Critical Linkage unless the County Administrator, or his designee, determines the roads are required as the only reasonable means of access to a project after consideration of the availability of alternative routes to the project and the environmental sensitivity of the Critical Linkage.

B. Arterial and Collector Roads and Utilities (CON 1.2.3)

Arterial and collector roads and any utilities shall be prohibited within the boundaries of any Critical Linkage, unless the County Administrator, or his designee, determines no feasible alternative exists and location within a Critical Linkage serves an overriding public purpose. Any collector and arterial roads indicated in the Highway Vision Plan (Map 7-36) of the Comprehensive Plan, or required by the County's collector and arterial spacing standards, shall be construed as having an overriding public purpose for which no feasible alternative exists.

C. Undercrossings

Any local, arterial or collector road, or utility permitted in a Critical Linkage shall provide a wildlife undercrossing meeting the minimum criteria as indicated the *Wildlife Undercrossing Table* on the ELAMP website, and also provide for the following features designed to encourage movement of wildlife through the undercrossing and protection of wildlife from vehicular related deaths:

- (A) Landscaping techniques such as funneling to the crossing site
- (B) Lighting
- (C) Signage
- (D) Fencing

D. Road Interconnection Requirements Waived

Any road interconnection requirements as indicated in Section 618.12 or 610.3(O) of this Code are waived to the extent those requirements extend a road into the boundaries of any Critical Linkage.

705.10 Permitted and Prohibited Uses within Critical Linkages (CON 1.2.2 e)

A. Permitted Existing Uses and Structures

All lawfully permitted uses and structures within a Critical Linkage existing prior to the effective date of this Section shall not be affected by this Section.

B. Development in Accord with Existing Zoning

Development within a Critical Linkage that is consistent with the zoning district in effect for the Critical Linkage as of the effective date of this Section shall not be affected by this Section.

C. Permitted Uses

- (1) Floodplain compensation that does not require site alteration within any Critical Linkage
- (2) Recreational Fishing
- (3) Exotic Species Removal
- (4) Passive recreational uses such as canoeing, kayaking, hiking, birding and nature study

D. Permitted Uses with Prior County Approval

The following uses may occur as set forth in the intent and purpose of this Section only with prior written approval by the County Administrator, or his designee:

- (1) Hunting
- (2) Timber removal
- (3) Boardwalks or pervious walking and hiking paths
- (4) Selected agricultural activities (**Comp Plan Apndx 2A-15**)
- (5) Wetland mitigation through preservation, enhancement, and restoration as indicated in an Environmental Management Plan in accordance with Section 705.14.

D. Prohibited Uses

Consistent with the intent set forth in this Section the following activities or uses within any Critical Linkage are strictly prohibited:

- (1) Dredging
- (2) Excavating
- (3) Floodplain compensation that requires site alteration
- (4) Wetland creation
- (5) Stormwater pond creation

705.11 Development Options

A. Density Transfers to Property Outside of Critical Linkage

(1) The density or intensity within the boundaries of an MPUD subject to this Section may be increased as Transferable Density in accord with A (4) of this subsection only if all such Transferable Density is transferred to a receiving area as indicated in A(2) of this subsection.

(2) The receiving area of an MPUD subject to this Section may be:

(a) An onsite receiving parcel, which is any area within the boundaries of the same project, so long as such area is not environmentally sensitive or protected lands or any area designated in the Comprehensive Plan as Conservation, Coastal High Hazard Area, or a Transportation Corridor or any land area specifically designated in the Comprehensive Plan as not being suitable for transferable density; or

(b) An offsite receiving parcel, which is any parcel that is not the onsite parcel. An offsite parcel is not required to be owned by the same applicant, and is not required to be contiguous with any Critical Linkage lands or the onsite receiving parcel project boundaries. However, the offsite receiving parcel shall not be any portion of any parcel designated in the Comprehensive Plan as AG, AG-R, RES-1, Rural Character Area, Rural Neighborhood Protection Area, Rural Transition Area, Rural Protection Area, Conservation, Coastal High Hazard Area, Transportation Corridor, or any land area specifically designated in the Comprehensive Plan as not being suitable for transferable density.

(3) Density transfers pursuant to this subsection shall be evidenced by recorded deed restrictions, in a form acceptable to the County, on the sending and receiving properties, at the time of County final MPUD approval.

(4) The Transferable Density shall be calculated as:

(a) A (Developable Residential Acres) = number of upland acres within a Critical Linkage

U (Units) = number of units allowed on A per developable acre

N = product of A and U

B (Bonus) = 25% of N

TD (Transferable Density) = N + B

$A \times U = N$

$N \times .25 = B$

$TD = N + B$

An example of the Transferable Density calculation is available on the ELAMP website.

(b) The amount for A shall be the developable residential acreage within a Critical Linkage. Developable residential acreage shall be the portion of the Critical Linkage that could be developed for residential use, inclusive of street rights-of-way, utility rights-of-way, public and private parks, community facilities, and the like. Developable residential acreage shall not include any lands that are classified as wetlands, CON (conservation lands) per the Comprehensive Plan Future Land Use map, or any water bodies.

(c) The amount for U shall be determined by the maximum density allowed by the Future Land Use classification in the Comprehensive Plan applicable to the developable residential acreage of the Critical Linkage.

(d) Any density or intensity credit for Category 1, 2 or 3 wetlands within a Critical Linkage shall be calculated and may be transferred in accord with the Comprehensive Plan Chapter 2, Future Land Use Element Appendix A-4, paragraph 3 and 5.

(e) If all or any portion of the receiving land area contains a Future Land Use that allows for non-residential uses, such land area may utilize the Transferable Density (TD) calculated above by converting the Transferable Density to non-residential uses. The conversion of the Transferable Density to non-residential uses shall be based on the equivalent non-residential p.m. peak hour vehicle trips resulting from the Transferable Density utilizing the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual.

(5) Other Incentives

In the MPUD approval, the Development Review Committee or the Board of County Commissioners may grant other incentives on the portion of the MPUD project outside of any Critical Linkage, if such incentives are necessary to achieve the Transferable Density. Such incentives include, but are not limited to: **(ELATF Report p. 32)**

(a) Increased maximum height,

(b) Reduced minimum setbacks, lot area, lot width, and lot depth,

(c) Increased maximum lot coverage,

(d) Reduced minimum open space,

(e) Reduced neighborhood park requirements,

- (f) Reduced landscaping requirements, and
- (g) Reduced tree replacement requirements
- (h) Expedited approvals

B. Compensation In Lieu of Density Transfer

(1) If any applicant of a submittal subject to the requirements of this Section is unable to utilize the Transferable Density set forth in 705.11, such applicant is entitled to request compensation for any amount of unutilized Transferable Density. The amount of compensation shall be determined based on an appraisal of the existing zoning and land use. Compensation requires a conservation easement over the Critical Linkage land or a conveyance of the Critical Linkage land as indicated in 705.13.

(2) In the event the County and the applicant are unable to agree on the compensation the County or the applicant may request an appeal which shall consist of the following: 1) appellant's payment of the applicable appeal fee; and 2) referral of the issue(s) in dispute to a third party consultant chosen by the County, in consultation with the applicant, who shall make a determination on the issue(s) in dispute within thirty working days of the date of the referral. If either party disagrees with the determination made by the third-party consultant, they may appeal the issue(s) in dispute to the DRC. The decision of the DRC may be appealed to the Board of County Commissioners pursuant to Section 317 of the LDC. All appeals shall be submitted through the Zoning Administrator, or his designee.

(3) Landowners requesting compensation pursuant to this subsection are not entitled to the Other Incentives set forth in subsection 705.11, but are not precluded from seeking a variance from such requirements in accordance with the requirements of Section 316 of the Land Development Code.

C. Partial Density Transfer and Partial Compensation in Lieu of Density Transfer

(1) If any applicant of a submittal subject to the requirements of this Section is unable to utilize the Transferable Density set forth in 705.11, such applicant is entitled to request compensation for any amount of unutilized Transferable Density. The amount of compensation shall be determined based on appraisals of the sending and receiving parcels to determine the values before and after the rezoning and density transfer and land use change. Density transfer is considered adequate compensation unless the valuations of the sending and receiving parcels show a decrease in the cumulative land values after the rezoning, density transfer and land use change. Compensation requires a conservation easement over the Critical Linkage land or a conveyance of the Critical Linkage land as indicated in 705.13.

(2) Landowners requesting compensation pursuant to this subsection are not entitled to the Other Incentives set forth in subsection 705.11, but are not precluded from seeking a variance from such requirements in accordance with the requirements of Section 316 of the Land Development Code.

D. Development in Accordance with Existing Zoning

Any application for building permits for new buildings or submittals pursuant to Section 306 in accord with the zoning district in effect as of the effective date of this Section that has boundaries that include any Critical Linkage shall not be subject to this Section.

705.12 Transitional Uses (CON 1.2.2 i)

Development and re-development adjacent to Critical Linkages must demonstrate site planning and orientation which maximizes the preservation and function of the Critical Linkage. (CON 1.2.2i). Any preliminary plan or preliminary site plan within an MPUD or DRI subject to this Section shall be designed to maximize to the extent practical the placement of open spaces adjacent to the boundaries of a Critical Linkage.

705.13 Interest in Critical Linkage Land

A. Any lands that are within a Critical Linkage shall:

(1) Be conveyed to the County in fee simple, or

(2) Be subject to a conservation easement for purposes of enforcement of the Environmental Management Plan indicated in subsection 705.14 and the permitted uses in 705.10. The conservation easement shall be substantially similar to the sample *Critical Linkage Conservation Easement* available on the ELAMP web site. A conservation easement granted pursuant to this Section does not grant the County or the general public any ownership or property interest in the land, or any right of entry that the County does not otherwise have pursuant to its general powers to enforce any provision of this Code. The purpose of the conservation easement granted pursuant to this section is to ensure compliance with the requirements of this Section, and to put subsequent purchasers and users of the land on notice of these regulatory restrictions.

(3) The choice of dedicating the Critical Linkage land to the County by fee simple or subjecting the land to a conservation easement is at the option of the landowner. However, the County may reject a fee simple deed, and require a conservation easement, if the Critical Linkage land has the following characteristics:

(a) Limited accessibility by County staff due to the Critical Linkage being landlocked without any public access; or

(b) Intense maintenance needs due to the Critical Linkage being in a non-native state such as a significant presence of non-native species, clear-cutting or extensive pasture lands; or

(c) Lack of connectivity or proximity to other public lands; or

(d) Use of the Critical Linkage land by the landowner per Section 705.10.

B. Any deed or conservation easement for any Critical Linkage shall be required prior to the issuance of any site development permit.

705.14 Environmental Management Plan

A. For any Critical Linkage lands in which the County is granted a conservation easement per 705.13, an Environmental Management Plan (EMP) must be submitted to and approved by the County prior to any issuance of a site development permit. A sample *Environmental Management Plan* is available on the ELAMP website.

B. The EMP shall be prepared which addresses the proposed management of those portions of the Critical Linkage within the project boundaries. At a minimum, the following information shall be addressed by the EMP: **(CON 1.2.6, 1.4.3)**

(1) Identification of the responsible entity, acceptable to Pasco County, for the Critical Linkage maintenance and any enhancements.

(2) Ownership, Responsibilities and Management Authority for all Conservation Areas including the Critical Linkage portions of the project.

(3) Management Concepts & Applicability including controlled burns, mechanical alternatives, enhancement plantings, nuisance species control, security, and resident education programs, as appropriate for the Critical Linkage.

(4) Specific management strategies for all wetland mitigation, habitat, and Critical Linkage areas including planting plans for natural and common areas.

(5) A schedule for routine inspections, maintenance, and enhancement of the Critical Linkage.

(6) Detailed plans and an idealized five-year schedule for the management and maintenance of the Critical Linkage including any wildlife crossings and specific habitat types as appropriate.

C. The EMP shall be submitted for review by the County Administrator, or his designee, prior to the release of the Site Development Permit. A final, approved EMP shall not be required until all infrastructure (roads, stormwater collection and treatment system, water, and sanitary sewer) have been certified as completed and functional to allow for modifications and improvement, but such approval shall be required prior to the first Certificate of Occupancy being released, unless otherwise agreed to, in writing by the County Administrator or his designee.

D. Lands dedicated to and accepted by the County within Critical Linkages shall not require an EMP to be provided by the entity dedicating said land. The County will develop an EMP for said land in accordance with 705.14.

SECTION 3. SEVERABILITY

It is declared to be the intent of the County Commission that if any section, subsection, sentence, clause, or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained said section, subsection, sentence, clause, or provision and shall not be affected by such holding.

SECTION 4. INCLUSION IN CODE.

It is the intent of the County Commission that the provisions of this Ordinance shall become and be made a part of the Pasco County Land Development Code and that any section of this Ordinance may be renumbered or relettered and the word Ordinance may be changed to section, article, or regulation or such appropriate word.

SECTION 5. REPEALER.

Any ordinance or part of any ordinance, in conflict herewith is hereby repealed to the extent of any conflict.

SECTION 6. APPLICABILITY.

This Ordinance shall apply to any project that is subject to CON 1.2 of the Conservation Element of the Pasco County Comprehensive Plan adopted in June 2006, except for those projects that have already received MPUD, preliminary plan, construction plan or building permit approval, or a Certificate of Occupancy, before the effective date of this Ordinance. Existing approvals shall continue to be subject to any existing conditions of approval relating to Critical Linkages, and increases in density or intensity within such approvals after the effective date of this Ordinance and within a any conceptual Critical Linkage shall be subject to the requirements of this Ordinance.

SECTION 7. EFFECTIVE DATE.

A certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Circuit Court within ten (10) days after adoption of this Ordinance and this Ordinance shall take effect on the date of filing. However, Sections 705.11 A(2)(b) of this Ordinance shall not take effect until final adoption of amendments to the Comprehensive Plan to make such sections consistent with the Comprehensive Plan.

ADOPTED this _____ day of _____, 2008.

(S E A L)

BOARD OF COUNTY COMMISSIONERS
OF PASCO COUNTY, FLORIDA

ATTEST:

JED PITTMAN, CLERK

CHAIRMAN