



# MEMORANDUM

Office of the City Attorney

LEGISTAR NO. 050766

Box 46  
Phone: 334-5011/Fax 334-2229

**TO:** Mayor and City Commission

**DATE:** July 10, 2006

**FROM:** City Attorney

CITY ATTORNEY  
FIRST READING

**SUBJECT:** Ordinance No. 0-06-56, Petition 172LUC-05PB  
An Ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan; by changing the land use category of certain property annexed into the City from the Alachua County land use category of "LOW, Low Density Residential" to the City of Gainesville land use category of "Conservation"; consisting of approximately 13 acres, located in the vicinity of the 900 block of Southwest 34th Street, west side, as more specifically described in this Ordinance; providing a severability clause; providing a repealing clause; and providing an effective date.

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**Recommendation:** The City Commission: 1) approve Petition No. 172LUC-05PB; and 2) adopt the proposed ordinance.

## STAFF REPORT

The subject property is located west of Southwest 34th Street in the 900 block. The property proposed for the land use change is approximately 13 acres in size and is composed of three tax parcels. This property was annexed into city limits on November 14, 2005. This petition is being proposed in order to bring the parcel under the City's land use and zoning regulations (as is required for all annexed properties).

The property is vacant, and all three parcels are located in the 10-year Flood Channel. The Land Development Code (Sec. 30-286) prohibits permanent structures or fills in the flood channel district except structures and fills designed for flood prevention and control, streets, bridges, and sanitary sewer lift stations and utility lines. There is currently no vehicular access to these parcels.

The current Future land use category designation on this parcel is Alachua County Low Density Residential. The existing zoning is Alachua County Agriculture; see related Petition 173ZON-05PB. The petition proposal is to change the Future Land Use category to City of Gainesville category Conservation.

The parcels to the north of the subject parcels are designated PF (Public Facilities) and CON (a portion of the Hogtown Greenway). To the south and east, properties have an E (Education) land use category consistent with the University of Florida ownership of the land. To the west, the land is designated Alachua County Low Density Residential.

The Plan Board heard the petition and recommended that it be approved.

Public notice was published in the Gainesville Sun on April 4, 2006. Letters were mailed to surrounding property owners on April 5, 2006. The Plan Board held a public hearing April 20, 2006. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board recommended that the City Commission approve Petition 172LUC-06 PB. Plan Board vote 7-0.

#### CITY ATTORNEY MEMORANDUM

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The first hearing is held at the transmittal stage and must be advertised seven days prior to the first public hearing. The second hearing will be held at the adoption stage of the ordinance and must be advertised five days before the adoption hearing.

If adopted on first reading, the proposed amendment to the Comprehensive Plan will be transmitted to the State Department of Community Affairs (DCA) for written comment. Any comments, recommendations or objections of the DCA will be considered by the Commission at the second public hearing.

Following second reading, the Plan amendment will not become effective until the DCA issues a final order determining the adopted amendment to be in compliance in accordance with the Local Government Comprehensive Planning and Land Development Regulation Act, or until the Administration Commission (Governor and Cabinet) issues a final order determining the adopted amendment to be in compliance.

Prepared and  
submitted by:

  
\_\_\_\_\_  
Marion J. Radson, City Attorney

MJR/afm

Attachment

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**D R A F T**

5/23/2006

ORDINANCE NO. \_\_\_\_\_  
0-06-56

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4       **An Ordinance amending the City of Gainesville 2000-2010**  
5       **Comprehensive Plan; by changing the land use category of certain**  
6       **property annexed into the City from the Alachua County land use**  
7       **category of "LOW, Low Density Residential" to the City of**  
8       **Gainesville land use category of "Conservation"; consisting of**  
9       **approximately 13 acres, located in the vicinity of the 900 block of**  
10       **Southwest 34th Street, west side, as more specifically described in**  
11       **this Ordinance; providing a severability clause; providing a**  
12       **repealing clause; and providing an effective date.**  
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14

15       **WHEREAS**, publication of notice of a public hearing was given that the Future Land Use  
16 Map be amended by changing the land use category of certain lands annexed into the City from the  
17 Alachua County land use category of "LOW, Low Density Residential"; to the City of Gainesville  
18 land use category of "Conservation"; and

19       **WHEREAS**, notice by the Plan Board was given and publication made as required by law and  
20 a public hearing was held by the City Plan Board on April 20, 2006; and

21       **WHEREAS**, pursuant to law, an advertisement no less than two columns wide by 10 inches  
22 long was placed in a newspaper of general circulation notifying the public of this proposed ordinance  
23 and of the Public Hearing to be held in the City Commission Meeting Room, First Floor, City Hall, in  
24 the City of Gainesville at least seven (7) days after the day the first advertisement was published; and

25       **WHEREAS**, pursuant to law, after the public hearing at the transmittal stage, the City of  
26 Gainesville transmitted copies of this proposed change to the State Land Planning Agency; and

27       **WHEREAS**, a second advertisement no less than two columns wide by 10 inches long was

**D R A F T**

5/23/2006

1 placed in the aforesaid newspaper notifying the public of the second Public Hearing to be held at the  
2 adoption stage at least five (5) days after the day the second advertisement was published; and

3         **WHEREAS**, public hearings were held pursuant to the published and mailed notices described  
4 above at which hearings the parties in interest and all others had an opportunity to be and were, in fact,  
5 heard; and

6         **WHEREAS**, prior to adoption of this ordinance the City Commission has considered the  
7 comments, recommendations and objections, if any, of the State Land Planning Agency.

8         **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**  
9 **CITY OF GAINESVILLE, FLORIDA:**

10         **Section 1.** The Future Land Use Map of the City of Gainesville 2000-2010 Comprehensive  
11 Plan is amended by changing the land use category of the following described property from the  
12 Alachua County land use category of “LOW, Low Density Residential” to the City of Gainesville  
13 land use category of “Conservation”;

14                 See legal description attached hereto as Exhibit "A", and made a part  
15                 hereof as if set forth in full.  
16

17         **Section 2.** The City Manager is authorized and directed to make the necessary changes in  
18 maps and other data in the City of Gainesville 2000-2010 Comprehensive Plan, or element, or portion  
19 thereof in order to comply with this ordinance.

20         **Section 3.** If any section, sentence, clause or phrase of this ordinance is held to be invalid or  
21 unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the  
22 validity of the remaining portions of this ordinance.

**D R A F T**

5/23/2006

1           **Section 4.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of such  
2 conflict hereby repealed.

3           **Section 5.** This ordinance shall become effective immediately upon passage on second  
4 reading; however, the effective date of this plan amendment shall be the date a final order is issued by  
5 the Department of Community Affairs finding the amendment to be in compliance in accordance with  
6 Chapter 163.3184, F.S.; or the date a final order is issued by the Administration Commission  
7 finding the amendment to be in compliance in accordance with Chapter 163.3184, F.S.

8           **PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2006.

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\_\_\_\_\_  
Pegeen Hanrahan, Mayor

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Kurt Lannon,  
Clerk of the Commission

\_\_\_\_\_  
Marion J. Radson, City Attorney

21           This ordinance passed on first reading this \_\_\_\_ day of

22 \_\_\_\_\_,

24           This ordinance passed on second reading this \_\_\_\_ day of

25 \_\_\_\_\_,

27 MJR/afm

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**Exhibit A**

**Legal Description for Parcel Numbers 06693-000-000 and 06694-000-000**

Section 11, Township 10 South, Range 19 East

Lots 1 and 2 in Section 11, Township 10 South, Range 19 East, according to a survey plat of said Lot 2 made by J.W. Patton, in May 1923, recorded in Deed Book 250, page 397, of the Public Records of Alachua County, Florida, containing 376,200 square feet or 8.64 acres, more or less.

**Legal Description for Parcel Numbers 06695-000-000**

Section 11, Township 10 South, Range 19 East

Lot 3, of Thomas Sweat Subdivision of Lot 2, of Section 11, Township 10 South, Range 19 East, Alachua County, Florida. Said parcel contains 188,100 square feet or 4.32 acres, more or less.

**EXHIBIT "A"**