

Legislative #

150441

ORDINANCE NO. 150441

**An ordinance of the City of Gainesville, Florida, amending Policy 4.3.6 of the Future Land Use Element of the City of Gainesville Comprehensive Plan relating to a condition about transportation impacts to Florida Department of Transportation facilities resulting from the Butler Development Planned Use District (PUD) that is generally located north of Archer Road, west of SW 34<sup>th</sup> Street, east of I-75, and south of SW 24<sup>th</sup> Avenue; providing directions to the City Manager; providing a severability clause; providing a repealing clause; and providing an effective date.**

WHEREAS, Section 163.3167, Florida Statutes, requires local governments to maintain a Comprehensive Plan to guide future development and growth; and

WHEREAS, the Planned Use District (PUD) land use category is an overlay land use district that may be applied to any specific property in the City to allow unique, innovative or narrowly construed land use proposals that might otherwise not be allowed in the underlying land use category; and

WHEREAS, each PUD land use overlay shall be adopted by an ordinance with land use regulations that address density and intensity, permitted uses, access by car, foot, bicycle, and transit, trip generation and trip capture, environmental features and, when necessary, buffering of adjacent uses; and

WHEREAS, upon the adoption of a PUD land use overlay, the underlying land use categories are neither abandoned nor repealed, but are inapplicable as long as the subject property is developed and used in accordance with the PUD land use overlay and the implementing Planned Development (PD) zoning ordinance; and

WHEREAS, on August 5, 2010, the City Commission adopted Ordinance No. 090537, which overlaid the PUD land use category on the subject property and established implementing land use regulations through the creation of Policy 4.3.6 of the Future Land Use Element of the

City of Gainesville Comprehensive Plan; and

**WHEREAS**, on November 21, 2013, the City Commission adopted Ordinance No. 121107, which amended Policy 4.3.6 and the Future Land Use Map Series in the Future Land Use Element; and

**WHEREAS**, by initiation of a petition by the owners of the subject property, notice was given as required by law that the subject property's PUD land use overlay and implementing land use regulations be amended by amending Policy 4.3.6 of the Future Land Use Element of the City of Gainesville Comprehensive Plan and its associated Future Land Use Map Series; and

**WHEREAS**, the City Plan Board, which acts as the Local Planning Agency pursuant to Section 163.3174, Florida Statutes, held a public hearing on October 22, 2015, and voted to recommend that the City Commission approve this amendment to the Comprehensive Plan; and

**WHEREAS**, on December 3, 2015, the City Commission held a public hearing and voted to approve the petition (Petition No. PB-15-102 CPA) associated with this ordinance; and

**WHEREAS**, an advertisement no less than two columns wide by ten (10) inches long was placed in a newspaper of general circulation and provided the public with at least seven (7) days' advance notice of this ordinance's first public hearing (i.e., transmittal hearing) to be held by the City Commission in the City Hall Auditorium, located on the first floor of City Hall in the City of Gainesville; and

**WHEREAS**, after the first public hearing, the City of Gainesville transmitted copies of this proposed amendment to the reviewing agencies and any other local government unit or state agency that requested same; and

**WHEREAS**, a second advertisement no less that two columns wide by ten (10) inches long was placed in the aforesaid newspaper and provided the public with at least five (5) days' advance

notice of this ordinance's second public hearing (i.e., adoption hearing) to be held by the City Commission; and

**WHEREAS**, the public hearings were held pursuant to the notice described above at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard; and

**WHEREAS**, prior to adoption of this ordinance, the City Commission has considered any written comments received concerning this amendment to the Comprehensive Plan.

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

**Section 1.** Condition a.29. within Policy 4.3.6 of the Future Land Use Element of the City of Gainesville Comprehensive Plan, which shall govern and control the use and development of the Butler Development Planned Use District (PUD) property, is amended as follows. Except as amended herein, the remainder of Policy 4.3.6 remains in full force and effect.

4.3.6 This policy shall regulate the Planned Use District (PUD) known as the "Butler Development." The Butler Development PUD, including its division into four (4) subareas, is depicted on the map titled "Butler Development PUD Future Land Use Overlay" in the Future Land Use Map Series located in this element. The properties within the Butler Development PUD have underlying future land use categories as shown on the map entitled "Butler Development Underlying Future Land Use" in the Future Land Use Map Series located in this element.

Comprehensive Plan policies of general applicability shall apply to the Butler Development PUD. In the event of express conflict or inconsistency between the general Comprehensive Plan policies and any specific policies as set forth below, the specific policies shall govern.

a. The following conditions shall apply to the entirety of the Butler Development PUD:

29. In accordance with the PD zoning ordinance, S. Clark Butler Properties, LTD., and its successors and assigns, shall coordinate with FDOT to address transportation impacts that affect FDOT facilities ~~and satisfy the FDOT~~

12/22/2015

~~requirements listed below. Proof of satisfying any FDOT these requirements shall be provided to the City in the form of a letter or other written documents issued by the FDOT.~~

~~(a) The PD zoning ordinance shall establish thresholds and a timeframe for the completion of an Interchange Modification Report (IMR) consistent with FDOT IMR typical procedures. This IMR would evaluate alternatives and determine a feasible long term plan for the Archer Road (SR 24)/I-75 interchange. The cost of the IMR shall count toward meeting the agreed upon transportation requirements in the TCEA Zone M Agreement executed on January 3, 2012 (as modified by the Addendum executed November 29, 2012).~~

~~(b) Prior to issuance of the first certificate of occupancy (CO) for any new building in Subarea 1 or 2 or issuance of certificates of occupancy for net, new additional square footage associated with development or redevelopment in Subareas 3 or 4 that cumulatively result in 500 net, new p.m. peak hour trips of adjacent street traffic as calculated using the latest edition of the ITE trip Generation Manual, S. Clark Butler Properties, LTD., and its successors and assigns, shall:~~

~~(i) Construct a third southbound left turn lane at the Archer Road/I-75 interchange, subject to review and approval by the Florida Department of Transportation (FDOT); or~~

~~(ii) Execute an agreement with FDOT that includes payment from S. Clark Butler Properties, LTD., and its successors and assigns, to the FDOT to construct or have constructed the appropriate Archer Road/I-75 interchange modifications as determined by FDOT staff.~~

~~This improvement is a site related operational and safety modification.~~

**Section 2.** It is the intent of the City Commission that the provisions of Section 1 of this ordinance shall become and be made a part of the City of Gainesville Comprehensive Plan and that the sections and paragraphs of the Comprehensive Plan may be renumbered in order to accomplish such intent.

**Section 3.** The City Manager or designee is authorized and directed to make the necessary changes to the City of Gainesville Comprehensive Plan in order to fully implement this ordinance. The City Manager or designee is authorized to correct any typographical errors

that do not affect the intent of this ordinance.

**Section 4.** Within ten (10) working days of the transmittal (first) hearing, the City Manager or designee is authorized and directed to transmit this plan amendment and appropriate supporting data and analyses to the reviewing agencies and to any other local government or governmental agency that has filed a written request for same with the City. Within ten (10) working days of the adoption (second) hearing, the City Manager or designee is authorized and directed to transmit this plan amendment and appropriate supporting data and analyses to the state land planning agency and any other agency or local government that provide timely comments to the City.

**Section 5.** If any word, phrase, clause, paragraph, section or provision of this ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or applications of this ordinance that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this ordinance are declared severable.

**Section 6.** All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed on the effective date of this plan amendment.

**Section 7.** This ordinance shall become effective immediately upon adoption; however, the effective date of this amendment to the City of Gainesville Comprehensive Plan, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the City that the plan amendment package is complete in accordance with Section 163.3184, Florida Statutes. If timely challenged, this Comprehensive Plan amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining the amendment to be in compliance with Chapter 163, Florida

**D R A F T**

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Statutes. No development orders, development permits, or land uses dependent on this Comprehensive Plan amendment may be issued or commenced before this amendment has become effective.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
EDWARD B. BRADY  
MAYOR

Attest:

Approved as to form and legality:

\_\_\_\_\_  
KURT M. LANNON  
CLERK OF THE COMMISSION

\_\_\_\_\_  
NICOLLE M. SHALLEY  
CITY ATTORNEY

This ordinance passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

This ordinance passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2016.