

980226

CITY OF GAINESVILLE
Office of the City Attorney

Memorandum

334-5011/Fax 334-2229

Box No. 46

TO: Mayor and City Commission

DATE: July 27, 1998

FROM: City Attorney

CITY ATTORNEY
FIRST READING

SUBJECT: Ordinance No. 0-98-69, Petition No. 37LUC-97PB
An Ordinance amending the City of Gainesville 1991-2001 Comprehensive Plan, Future Land Use Map; by overlaying the Planned Use District Category over certain property with the future land use categories of "Residential Low Density (up to 12 units per acre)" and "Conservation"; located in the vicinity of the 900 block of N.E. 39th Avenue, south side; providing additional conditions and directions; repealing Ordinance No. 960936 that was adopted in error; providing a severability clause; providing a repealing clause; and providing an effective date.

Recommendation: The City Commission adopt the proposed ordinance on first reading and transmit the ordinance to the Florida Department of Community Affairs for written comment..


The above-referenced ordinance has been prepared pursuant to City Commission action requesting the City Attorney's Office to prepare the appropriate ordinance amending the City of Gainesville 1991-2001 Comprehensive Plan.

The proposed amendment to the Comprehensive Plan will be transmitted to the State Department of Community of Affairs for written comment. Any comments, recommendations or objections of the State Department of Community Affairs must be considered at the second public hearing. The City Commission may then adopt or adopt with changes the proposed amendment to the Comprehensive Plan, or determine not to adopt a plan amendment.

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The second hearing will be held at the adoption stage of the ordinance and must be advertised approximately five (5) days after the day that the second advertisement is published.

The Plan amendment will not become effective until the State Department of Community Affairs 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

37LUC.CVR

ORDINANCE NO. _____
0-98-69

1
2
3
4 An Ordinance amending the City of Gainesville 1991-2001
5 Comprehensive Plan, Future Land Use Map; by overlaying
6 the Planned Use District Category over certain property
7 with the future land use categories of "Residential Low
8 Density (up to 12 units per acre)" and "Conservation";
9 located in the vicinity of the 900 block of N.E. 39th
10 Avenue, south side; providing additional conditions and
11 directions; repealing Ordinance No. 960936 that was
12 adopted in error; providing a severability clause;
13 providing a repealing clause; and providing an
14 effective date.
15

16 WHEREAS, the real property which is the subject matter of
17 the ordinance involves approximately 83.79 acres of land; and

18 WHEREAS, on April 27, 1998, the City Commission adopted
19 Ordinance No. 960936 that utilized in error the adoption
20 procedures of a small scale development activity; and

21 WHEREAS, the City Plan Board authorized the publication of
22 notice of a Public Hearing that Planned Use District
23 Classification be overlaid on certain lands within the City with
24 the Land Use Categories of "Residential Low Density (up to 12
25 units per acre)" and "Conservation"; and

26 WHEREAS, notice by the Plan Board was given and publication
27 made as required by law and a Public Hearing was held by the City
28 Plan Board on August 21, 1997; and

29 WHEREAS, notice was given and publication made of a Public
30 Hearing which was held by the City Commission on September 25,

1 1997; and

2 **WHEREAS**, it is necessary that the City Commission adopt the
3 land use amendment in accordance with the procedures provided in
4 Chapter 163, F.S.; and

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

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

15 **WHEREAS**, a second advertisement no less than two columns
16 wide by 10 inches long was placed in the aforesaid newspaper
17 notifying the public of the second Public Hearing to be held at
18 the adoption stage at least five (5) days after the day the
19 second advertisement was published; and

20 **WHEREAS**, the two (2) Public Hearings were held pursuant to
21 the published notices described above at which hearings the
22 parties in interest and all others had an opportunity to be and
23 were, in fact, heard.

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

3 **Section 1.** The Future Land Use Map of the City of
4 Gainesville 1991-2001 Comprehensive Plan is amended by overlaying
5 the Planned Use District category on the following described
6 property with the current Land Use Categories of "Residential Low
7 Density (up to 12 units per acre)" and "Conservation";

8
9 See legal description attached hereto as Exhibit "A",
10 and made a part hereof as if set forth in full.

11 **Section 2.** The Planned Use District overlay category on the
12 property described in Section 1 of this Ordinance is subject to
13 the following terms, conditions and restrictions:

14 a) The commercial and warehousing portions of the
15 development shall have a maximum floor area ratio of .30.

16 b) Residential density is limited to a maximum of 8 units
17 per acre.

18 c) Land uses permitted within the development shall be
19 commercial, warehousing, and single-family residential as defined
20 in the Comprehensive Plan. The uses are shown on "Map 1"
21 attached hereto and made a part hereof as if set forth in full.

22 d) The single-family residential areas may contain
23 detached or attached single-family units but the predominant type
24 shall be detached single-family units. The exact proportion
25 shall be specified in the zoning ordinance that rezones the

1 property described in Section 1 of the Ordinance to Planned
2 Development.

3 e) As an integral part of the single-family residential
4 development area, the development shall include a one-acre
5 compact area for recreational use. The recreation area shall
6 include active areas and passive recreation and facilities.
7 Specific details of the recreational areas and facilities shall
8 be specified in the zoning ordinance that rezones the property
9 described in Section 1 of this ordinance to Planned Development.

10 f) The number of vehicular access points to the
11 development shall be consistent with the Transportation Mobility
12 Element of the City's 1991-2001 Comprehensive Plan and the
13 specific requirements of the Florida Department of Transportation
14 which has jurisdiction on NE 39th Avenue.

15 g) The exact number of specific location and configuration
16 of vehicular access points to the public rights-of-way shall be
17 determined during the development review process and shall be
18 included in the ordinance rezoning the property described in
19 Section 1 of this ordinance to Planned Development. Vehicular
20 access points shall be designed and limited in number in the
21 interest of public safety and to minimize congestion on the
22 roadway systems.

23 h) An appropriate environmental study and field
24 investigation report for each portion of property proposed for

1 development review shall be prepared by the developer at its sole
2 cost and expense and shall be submitted to the appropriate
3 reviewing body as a part of the development review process. All
4 jurisdictional wetlands shall be protected in accordance with the
5 Conservation Element of the City's 1991-2001 comprehensive Plan.

6 i) A 100 foot wide natural buffer shall be maintained in
7 its existing condition between the "Single-family Residential"
8 and "Warehousing" area, and between the "Single-family
9 Residential" and the area marked "BA" west of the subject
10 property, as more specifically shown on Map 2 attached hereto and
11 made a part hereof as if set forth in full. A 50 foot natural
12 buffer shall be maintained in its existing condition between the
13 common boundary of the single-family residential uses and
14 commercial uses as more specifically shown on Map 2.

15 **Section 3.** A planned development zoning ordinance is
16 required to be adopted in order to implement and permit the
17 development plan and the uses permitted by this Ordinance.

18 **Section 4.** The Future Land Use Map Category of "Residential
19 Low Density (up to 12 units per acre)" and "Conservation" on the
20 property described in Section 1 of this ordinance is neither
21 abandoned nor repealed; such category is inapplicable as long as
22 the property is developed and used in accordance with the
23 development plan approved in the ordinance rezoning this property
24 to Planned Development "PD". In the event, however, the property

1 described in Section 1 of this Ordinance is not rezoned by
2 ordinance to Planned Development "PD" within one (1) year of this
3 amendment becoming effective as provided in Section 8 of this
4 Ordinance, then the Planned Use District Category imposed by this
5 Ordinance shall be deemed null and void and of no further force
6 and effect and the Future Land Use Map shall be amended
7 accordingly upon proper notice.

8 **Section 5.** Ordinance No. 960936 that purported to amend the
9 land use on the property described in Section 1 of this ordinance
10 is repealed in its entirety and is of no further force and
11 effect.

12 **Section 6.** The City Manager is authorized and directed to
13 make the necessary changes in maps and other data in the City of
14 Gainesville 1991-2001 Comprehensive Plan, or element, or portion
15 thereof in order to comply with this ordinance.

16 **Section 7.** If any section, sentence, clause or phrase of
17 this ordinance is held to be invalid or unconstitutional by any
18 court of competent jurisdiction, then said holding shall in no
19 way affect the validity of the remaining portions of this
20 ordinance.

21 **Section 8.** All ordinances, or parts of ordinances, in
22 conflict herewith are to the extent of such conflict hereby
23 repealed.

EXHIBIT "A"

DESCRIPTION PARCEL 'A':

A PARCEL OF LAND LOCATED IN THE NW 1/4 OF SECTION 28, TOWNSHIP 9 SOUTH, RANGE 20 EAST, ALACHUA COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 28, TOWNSHIP 9 SOUTH, RANGE 20 EAST AND RUN SOUTH 89°08'12" WEST ON THE NORTH LINE OF SAID SECTION 28, A DISTANCE OF 3410.84 FEET; THENCE DEPARTING SAID NORTH LINE OF SECTION 28, RUN SOUTH 01°04'46" EAST, A DISTANCE OF 63.87 FEET TO THE NORTHEAST CORNER OF A MINOR SUBDIVISION AS RECORDED IN MINOR SUBDIVISION BOOK 1, PAGE 88, OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA, THE SAME POINT BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF STATE ROAD 222 AND THE POINT OF BEGINNING; THENCE NORTH 89°08'12" EAST, ON THE SOUTHERLY RIGHT OF WAY LINE OF SAID STATE ROAD 222, A DISTANCE OF 766.65 FEET; THENCE DEPARTING SAID SOUTHERLY RIGHT OF WAY LINE, RUN SOUTH 01°04'46" EAST, A DISTANCE OF 1214.62 FEET; THENCE RUN SOUTH 89°08'12" WEST, A DISTANCE OF 766.65 FEET; THENCE RUN NORTH 01°04'46" WEST, A DISTANCE OF 15.00 FEET TO THE SOUTHEAST CORNER OF THE AFOREMENTIONED MINOR SUBDIVISION; THENCE CONTINUE NORTH 01°04'46" WEST, ON THE EAST LINE OF THE AFOREMENTIONED MINOR SUBDIVISION, A DISTANCE OF 1199.66 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF STATE ROAD 222 AND THE POINT OF BEGINNING. PARCEL 'A' CONTAINS 21.377 ACRES OF LAND MORE OR LESS.

DESCRIPTION PARCEL 'B':

A PARCEL OF LAND LOCATED IN THE NW 1/4 OF SECTION 28, TOWNSHIP 9 SOUTH, RANGE 20 EAST, ALACHUA COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 28, TOWNSHIP 9 SOUTH, RANGE 20 EAST AND RUN SOUTH 89°08'12" WEST ON THE NORTH LINE OF SAID SECTION 28, A DISTANCE OF 3410.84 FEET; THENCE DEPARTING SAID NORTH LINE OF SECTION 28, RUN SOUTH 01°04'46" EAST, A DISTANCE OF 63.87 FEET TO THE NORTHEAST CORNER OF A MINOR SUBDIVISION AS RECORDED IN MINOR SUBDIVISION BOOK 1, PAGE 88, OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA, THE SAME POINT BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF STATE ROAD 222; THENCE RUN NORTH 89°08'12" EAST, ON SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 1533.30 FEET TO THE NORTHWEST CORNER OF HIGHLAND COURT MANOR UNIT NO. 5, A SUBDIVISION AS RECORDED IN PLAT BOOK H, PAGE 41, OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA; SAID POINT ALSO BEING THE POINT OF BEGINNING OF PARCEL 'B'; THENCE RUN SOUTH 00°54'24" EAST ON THE WEST LINE OF THE AFOREMENTIONED SUBDIVISION, A DISTANCE OF 1808.54 FEET TO THE WEST LINE OF HIGHLAND COURT MANOR UNIT NO. 4, A SUBDIVISION AS RECORDED IN PLAT BOOK F, PAGE 77, OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA; THENCE CONTINUE SOUTH 00°54'24" EAST ON THE WEST LINE OF THE AFOREMENTIONED SUBDIVISION, A DISTANCE OF 523.03 FEET; THENCE DEPARTING SAID WEST LINE RUN SOUTH 89°13'01" WEST, A DISTANCE OF 784.29 FEET; THENCE RUN SOUTH 00°54'24" EAST, A DISTANCE OF 115.00 FEET; THENCE RUN SOUTH 89°24'01" WEST, A DISTANCE OF 741.85'; THENCE RUN NORTH 01°04'46" WEST, A DISTANCE OF 1227.46 FEET; THENCE RUN NORTH 89°08'12" EAST, A DISTANCE OF 766.65 FEET; THENCE RUN NORTH 01°04'46" WEST, A DISTANCE OF 1214.62 FEET TO THE SOUTHERLY RIGHT OF WAY OF STATE ROAD 222; THENCE SOUTH 89°08'12" WEST ON SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 766.65 FEET TO THE POINT OF BEGINNING. PARCEL 'B' CONTAINS 62.41 ACRES OF LAND MORE OR LESS.

LAND USE

3159-

NE 39TH AVENUE

940'

250'

250'

200'

WAREHOUSING
655'

COMMERCIAL

1030'

2440'

MINOR SUBDIVISION
PLAT NO. 15, 82

LOT 3
BA

8231-10-LOT

8231-75
BA

55-3
NORTH MAIN STREET
COMMERCIAL PARK

8231-55-2
CO. 1

8231-55-1

SINGLE
FAMILY
RESIDENTIAL

MAP 1

N. MAIN STREET

COUNTY ROAD 313

10th STREET

