



# MEMORANDUM

Office of the City Attorney

Box 46

Phone: 334-5011/Fax 334-2229

TO: Mayor and City Commission

DATE: November 14, 2005

FROM: City Attorney

CITY ATTORNEY  
SECOND READING

**SUBJECT: Ordinance No. 0-05-54, Petition 48LUC-05PB**  
**An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Map; by changing the land use categories of certain properties 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 "Residential Low-Density (up to 12 units per acre)", as more specifically described in this Ordinance, generally located in the vicinity of the 7200 block of N.W. 52<sup>nd</sup> Terrace; providing a severability clause; providing a repealing clause; and providing an effective date.**

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Recommendation: The City Commission: 1) receive the preliminary review of the Department of Community Affairs; and (2) adopt the proposed ordinance.

### STAFF REPORT

The subject property is 18 acres in size, and is a portion of the Blues Creek development in northwest Gainesville (known in the Planned Unit Development as "Unit 1"). The property was annexed into the city in 2005, and is mostly found within the 100-year FEMA floodplain. A much larger portion of the Blues Creek development—256 acres—was annexed into the city in 2001 and 2002. This property must be brought into conformance with the City's Comprehensive Plan. This requires amending the City's Future Land Use Map to include this property. This petition would amend the City's Future Land Use Map.

Single-Family residential (SF) land use is north of the property, is also part of Blues Creek, and is undeveloped. County Low-Density Residential (1-4 du/ac) land use is adjacent and developed to the south, east and west.

The revised Master Plan for Blues Creek, dated November 1999, specifies that the 18 acres within Unit 1 shall contain 57 single-family attached homes. All units are to be 2- or 3-bedroom homes, with a maximum height of 35 feet. Each lot has a zero setback. Setbacks from the property perimeter or dedicated streets are 35 feet for front, 20 feet for rear and 10 feet from side.

The character of the nearby property is largely suburban residential. Because the character of nearby properties is compatible, these properties are most suitably given a Residential Low (RL) land use.

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

Public notice was published in the Gainesville Sun on April 5, 2000. Letters were mailed to surrounding property owners on April 6, 2005. The Plan Board held a public hearing April 21, 2005. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board recommended that the City Commission approve Petition 48LUC-05 PB. Plan Board vote 6-0.

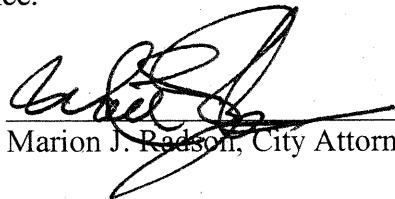
CITY ATTORNEY MEMORANDUM

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 days before the adoption hearing.

The State of Florida Department of Community Affairs issued a letter dated September 27, 2005, stating that this amendment need not be formally reviewed for consistency with Chapter 163, F.S. The Department also waived preparing an Objections, Recommendations and Comments Report. A copy of their letter is attached to this memorandum. Therefore, the City may now proceed with the final adoption of this ordinance.

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

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Passed on first reading by a vote of 6-0.



STATE OF FLORIDA  
**DEPARTMENT OF COMMUNITY AFFAIRS**  
 "Dedicated to making Florida a better place to call home"

Rec'd  
 9/30/05  
 Comm. Devel. Dept

JEB BUSH  
 Governor

THADDEUS L COHEN, AIA  
 Secretary

September 27, 2005

The Honorable Pooeen Hanrahan  
 Mayor, City of Gainesville  
 P.O. Box 490, Station 19  
 Gainesville, FL 32601-0490

Dear Mayor Hanrahan:

The Department has conducted a preliminary review of the City of Gainesville proposed comprehensive plan amendments received on August 23, 2005, DCA Reference No. 05-2.

The Department has determined that the proposed plan amendments need not be formally reviewed for consistency with Chapter 163, Florida Statutes (F.S.), and Rule 9J-5, Florida Administrative Code (F.A.C.). In addition, the Department has not received any recommendation for review from the North Florida Regional Planning Council or any affected person regarding the proposed amendment.

Therefore, the proposed amendment will not be reviewed and the Objections, Recommendations and Comments report will be waived. The local government may proceed to immediately adopt the amendment. After adoption, please submit three copies of the adopted amendment to the Department for our final compliance review, consistent with the requirements of Rule 9J-11.011, F.A.C.

The proposed comprehensive plan amendment includes the creation of two new mixed-use future land use categories; the amendment indicates the distribution of uses for these categories will be provided in the City's Land Development Code. Prior to adoption of this amendment the Department recommends the City include this information in the Comprehensive Plan.

Please be advised that Section 163.3184(8)(c), F.S., requires the Department to provide a courtesy information statement regarding the Department's Notice of Intent to citizens who furnish their names and addresses at the local government's plan amendment transmittal (proposed) or adoption hearings. In order to provide this courtesy information statement, local governments are required by law to furnish the names and addresses of the citizens requesting this information to the Department. **Please provide these required names and addresses to the Department when you transmit your adopted amendment package for compliance review.**

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100  
 Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781  
 Address: <http://www.dca.state.fl.us>

The Honorable Pegeen Hanrahan  
September 27, 2005  
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**In the event no names, addresses are provided, please provide this information as well.** For efficiency, we encourage that the information sheet be provided in electronic format.

Further, the Department's notice of intent to find a plan amendment in compliance shall be deemed to be a final order if no timely petition challenging the amendment is filed. Any affected person may file a petition with the agency within 21 days after the publication of the notice pursuant to Chapter 163.3184(9), F.S.

This letter should be made available for public inspection. If you have any further questions, please contact Ana Richmond at 850-922-1794.

Sincerely,



Paul DiGiuseppe  
Regional Planning Administrator

PD/ar

cc: Mr. Charles Justice, Executive Director, North Central Florida Regional Planning Council  
Mr. Dean Mimms, AICP, Chief of Comprehensive Planning City of Gainesville

D R A F T

May 4, 2005

ORDINANCE NO. \_\_\_\_\_  
0-05-54

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4 An ordinance amending the City of Gainesville 2000-2010  
5 Comprehensive Plan, Future Land Use Map; by changing the  
6 land use categories of certain properties annexed into the City  
7 from the Alachua County land use category of "LOW, Low  
8 Density Residential" to the City of Gainesville land use category  
9 of "Residential Low-Density (up to 12 units per acre)", as more  
10 specifically described in this Ordinance, generally located in the  
11 vicinity of the 7200 block of N.W. 52<sup>nd</sup> Terrace; providing a  
12 severability clause; providing a repealing clause; and providing  
13 an effective date.  
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15  
16 WHEREAS, publication of notice of a public hearing was given that the Future Land Use  
17 Map be amended by changing the land use categories of certain properties annexed into the City  
18 from the Alachua County land use category of "LOW, Low Density Residential" to the City of  
19 Gainesville land use category of "Residential Low-Density (up to 12 units per acre)"; and

20 WHEREAS, notice was given and publication made as required by law and a public  
21 hearing was held by the City Plan Board on April 21, 2005; and

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

**D R A F T**

May 4, 2005

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

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

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

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

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

12       **Section 1.** The Future Land Use Map of the City of Gainesville 2000-2010 Comprehensive  
13 Plan is amended by changing the land use category of the following described properties from the  
14 Alachua County land use category of "LOW, Low Density Residential" to the City of Gainesville  
15 land use category of "Residential Low-Density (up to 12 units per acre)":

16               See Exhibit "A" attached hereto and made a part hereof as if set forth  
17               in full.

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

**D R A F T**

May 4, 2005

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

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

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

11           **PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2005.

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\_\_\_\_\_  
PEGEEN HANRAHAN, MAYOR

15

16 ATTEST:

APPROVED AS TO FORM AND LEGALITY:

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19 \_\_\_\_\_  
KURT LANNON,  
20 CLERK OF THE COMMISSION

\_\_\_\_\_  
MARION J. RADSON, CITY ATTORNEY

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22           This ordinance passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2005.

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24           This ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2005.

25

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Petition 48LUC-05 PB, Legislative Matter Number 041186  
Petition 49ZON-05 PB, Legislative Matter Number 041187

LEGAL DESCRIPTION

PARCEL NO. 06007-011-013

Lot 13, Building "C", BLUES CREEK UNIT 1-A, a portion of a Planned Unit Development, as per plat thereof recorded in Plat Book "N", Page 20 of the Public Records of Alachua County, Florida.

PARCEL NO. 06007-123-002

Block "A", Lot Two (2), of Replat of Lots 23, 24, & 25, BLUES CREEK UNIT 1, a portion of a planned unit development situated in Section 10, Township 9 South, Range 19 East, as per plat thereof recorded in Plat Book "N", page 11 of the Public Records of Alachua County, Florida.

PARCEL NO. 06006-002-002

The South 300 Acres of the following described property:  
The West three-fourths (W  $\frac{3}{4}$ ) of Section Ten (10), Township Nine (9), South, Range Nineteen (19) East, less the Southwest Quarter of the Southeast Quarter (SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$ ). All lying and being in Alachua County, Florida.

PARCEL NO. 06007-124-000

All of Replat of Lots 23, 24, and 25, Blues Creek, Unit 1, as per Plat as recorded in Plat Book "N", page 11, of the Public Records of Alachua County, Florida. LESS AND EXCEPT Blocks A, B, C, D, E, and F of said Plat.

PARCEL NO. 06007-125-015

Lot 15, of a Replat of a portion of the replat of Lots 23, 24, and 25 of Blue's Creek, Unit 1, a Planned Unit Development as per plat thereof recorded in Plat Book "R", page 61 of the Public Records of Alachua County, Florida.

**EXHIBIT "A"**