

City of Gainesville

*City Hall
200 East University Avenue
Gainesville, Florida 32601*



Meeting Agenda

December 17, 2009

1:00 PM

City Hall Auditorium

City Commission

*Mayor Pegeen Hanrahan (At Large)
Mayor-Commissioner Pro Tem Scherwin Henry (District 1)
Commissioner Lauren Poe (District 2)
Commissioner Jack Donovan (District 3)
Commissioner Craig Lowe (District 4)
Commissioner Thomas Hawkins (At Large)
Commissioner Jeanna Mastrodicasa (At Large)*

Persons with disabilities who require assistance to participate in this meeting are requested to notify the Office of Equal Opportunity at 334-5051 or call the TDD phone line at 334-2069 at least two business days in advance.

CALL TO ORDER

AGENDA STATEMENT

"Citizens are encouraged to participate in City of Gainesville meetings. In general, speakers will be limited to 3 (three) minutes per agenda item. Additional time may be granted by the Mayor or by the City Commission as directed. The City of Gainesville encourages civility in public discourse and requests that speakers limit their comments to specific motions and direct their comments to the Chair. Signs or Props are not permitted in the meeting room. Citizens are encouraged to provide comments in writing to the Clerk of the Commission before meetings and/or during meetings for inclusion into the public record. Citizens may also provide input to individual commissioners via office visits, phone calls, letters and e-Mail, that will become public record. In some instances, i.e., Quasi-Judicial Hearings, these particular contacts may be prohibited."

ROLL CALL

INVOCATION

CONSENT AGENDA

CITY MANAGER, CONSENT AGENDA ITEMS

090608.

Settlement of Worker's Compensation Claim - Charles Jempson (NB)

This item involves the full and final settlement of Charles Jempson's worker's compensation claim(s), which will include all future medical, indemnity and Medicare Set-Aside payments. The total settlement amount is \$280,586.26 and represents a significant cost advantage to the City.

Explanation: While employed by Gainesville Police Department, Mr. Charles Jempson was involved in a motor vehicle accident which involved a serious back injury and has received treatment for the condition since that time. As a result of his injury and subsequent permanent work restrictions imposed by his treating physicians, Mr. Jempson was accepted as permanently and totally disabled.

Recently, the City, Mr. Jempson and his attorney agreed to the settlement of his worker's compensation claim. The City Attorney's Office, the Risk Management Department, GPD, Special Counsel and our Worker's Compensation servicing agent all concur as to the full and final settlement of this claim. The total amount, \$280,586.26, includes all attorney fees, future medical costs, past and future indemnity payments, taxable costs and Medicare Set-Aside payments.

Fiscal Note: The settlement of this case in the amount of \$280,586.26 will be paid out of the General Insurance Fund and reimbursed by the City of Gainesville Excess Carrier.

RECOMMENDATION

The City Commission authorize Special Counsel to prepare and execute the appropriate documents for a

lump-sum settlement of the Worker's Compensation Claim of Charles Jempson in the amount of \$280,586.26.

090611.**Evaluation and Appraisal Report (EAR) Major Issues (B)**

The purpose of this item is to provide the proposed Major Issues for the Evaluation and Appraisal Report (EAR) on the 2000-2010 City of Gainesville Comprehensive Plan EAR to the City Commission, and to request a Letter of Understanding from the Florida Department of Community Affairs.

Explanation: Florida's local governments are required to evaluate their comprehensive plans once every seven to ten years, in accordance with a schedule established by the Florida Department of Community Affairs. The City of Gainesville's Evaluation and Appraisal Report (EAR) on its comprehensive plan is required to be adopted by November 1, 2010. The EAR is the first step in updating a comprehensive plan. It is intended to: identify major issues for the community; review past actions of the local government in implementing the comprehensive plan since the last EAR; assess the degree to which plan objectives have been met; assess successes and shortcomings of the plan; identify how the plan should be changed; respond to changing conditions and trends affecting the community; respond to the need for new data; respond to changes in State of Florida requirements re: growth management and development; respond to changes in regional plans; and ensure effective intergovernmental coordination.

City planning staff began the EAR process with presentations on the draft EAR Public Presentation Plan to the City Plan Board and City Commission in December of 2008, and in January 2009 to the Plan Board. On April 24, 2009 at the Matheson Museum, the City of Gainesville and Historic Gainesville, Inc. sponsored a well-attended Celebration (of the City's federal designation as a Preserve America city in recognition of Gainesville's historic preservation programs) and Kick-off Event for the EAR. The City Commission held four Town Hall Meetings in May and June in order to receive public input on the EAR (and on the City's budget). Staff made presentations on the EAR to: the University Park Neighborhood Association's Board of Directors on June 2nd; Executive Committee of the Suwannee/St. Johns Group of the FL Chapter of the Sierra Club on June 11th; Builders Association of North Central FL on July 22nd; Alachua County Community Planning Group on August 4th; a combined meeting of Women for Wise Growth, Alachua Audubon Society, League of Women Voters of Alachua County, and the Sierra Club on September 22nd; and to the Chamber of Commerce on October 26th.

The City Plan Board held EAR workshops on March 4th, May 5th, June 29th, and August 19th. On August 28th, a voluntary scoping meeting (in accord with Sec. 163.3191(3), F.S.) was held at GTEC with various state and regional review agencies including DCA, adjacent local governments, and staff from general government and GRU. EAR Major Issues were discussed, data sources were identified, and advice was provided on the scope of review of the City's

EAR.

At the October 22, 2009 City Plan Board meeting, planning staff explained that the 15 Major Issues that were presented in various venues in previous months had been consolidated into eight Major Issues. The Board accepted the Major Issues document dated October 15, 2009 and commended staff on the quality of the document. Staff then explained that the next step was to take the Major Issues document to the City Commission, and to subsequently send it to the State (FL Department of Community Affairs) with a request for a Letter of Understanding regarding the Major Issues for the EAR. DCA's Letter of Understanding will help avoid misunderstandings when DCA reviews the adopted EAR for sufficiency.

Fiscal Note: None

RECOMMENDATION

The City Commission endorse the Major Issues and direct staff to submit the Major Issues document to the Florida Department of Community Affairs (DCA) with a request for a Letter of Understanding expressing DCA's agreement with the Major Issues.

090611a_Issues Rpt_20091217.pdf

090611b_Letter_20091217.pdf

090611c_Staff PPT_20091217.pdf

090613.

Northeast Pool Blankets, Reels and Reel Covers Purchase Authorization (B)

This item involves a request for the City Commission to authorize the purchase of pool blankets, reels and reel covers for Northeast Pool from Commercial Energy Specialist, Inc. (CES) in conjunction with the installation of the geo-thermal heating project currently underway.

Explanation: On May 21, 2009, the City Commission approved the heating project for Northeast Pool through the Wild Spaces Public Places sales tax initiative. There are two components to the pool heating project: The first, which is currently underway, requires the installation of geo-thermal heating units at Northeast Pool. Symbiont Service Corporation is currently installing the geo-thermal heaters at Northeast Pool; and second, pool blankets, reels and reel covers need to be purchased for installation at Northeast Pool.

Pool blankets are necessary on pool heating projects to prevent heat escape from the pool water at night and during times that the pool is closed. Pool blankets can eliminate up to 90% of the heat loss from pool water, and can save 50-70% on total heating costs. Pool blankets, when properly measured and fit to the exact specifications of each pool, will greatly improve the efficiency of the heating operation.

The Parks, Recreation & Cultural Affairs Department is requesting approval to purchase T-Star Energy Saver FE EX/HD-XER pool blankets; 100% stainless steel reels; and reel covers from Commercial Energy Specialists, Inc. (CES) through a specified source purchase based on the factors described below.

T-Star Enterprises offers a higher quality pool blanket than other manufacturers, including hemmed edging that is double folded and sewn, versus single folded on standard blankets; plate-reinforced corner construction to prevent tearing; and 12x10 thickness on the cover material versus 10x10 on standard blankets. T-Star pool blankets are also covered under a 6-year warranty, versus 3-5 years on standard pool blankets. The blanket reels offered by Commercial Energy Specialists, Inc. (CES) are manufactured from 100% stainless steel parts, guaranteed not to rust or corrode in a swimming pool environment. This includes stainless steel castors and wheels.

There is only one authorized vendor for T-Star pool blankets in Florida. That vendor is Commercial Energy Specialists, Inc. (CES), based out of Jupiter, Florida. CES will custom-measure our pool on-site and guarantee that the blankets are manufactured to our exact specifications and measurements, or they will replace them for free. CES will also provide customized cut-outs around all ladders, rails and protrusions in the pool to ensure a tight, secure fit for the pool blankets.

The Parks, Recreation & Cultural Affairs Department already has an annual maintenance and service contract in place with CES for our aquatic facilities. CES is very familiar with our pool facilities and operations, and as a result they will send certified pool service technicians free of charge to custom measure for the pool blankets.

Finally, custom manufacture of pool blankets is a very lengthy process. CES and T-Star Enterprises can meet the City's deadline for measuring, ordering, manufacturing and delivery of the pool blankets in the timeframe necessary to complete the Northeast Pool heating project.

Fiscal Note: Funding for the Northeast Pool blankets, reels and reel covers is available in the Wild Spaces Public Places capital projects account. A total of \$360,000 is available for the Northeast Pool heating project was approved by the City Commission on 5/21/09. This is a request to use a portion of that funding not to exceed \$60,275.

RECOMMENDATION

The City Commission: 1) approve the purchase of the pool blankets, reels and reel covers from Commercial Energy Specialists; and 2) the issuance of a purchase order in an amount not to exceed \$60,275 for the purchase of pool blankets for Northeast Pool.

Alternative Recommendation A: The City Commission deny this request for purchase of pool blankets, reels and reel covers from Commercial Energy Specialists for the Northeast Pool heating project.

090613_Pool Specs_20091217.pdf

090615.

Depot Park Construction Documents - Approval of Work Order #5 (NB)

This item is submitted by the CRA, which is acting as the City's agent to

develop Depot Park. City Commission approval is needed to initiate a work order to complete park construction documents and specifications under the existing contract with park designer Carol R. Johnson Associates.

Explanation: On September 21, 2009, the Gainesville Community Redevelopment Agency (CRA) approved the park concept presented by CRA staff and Carol R. Johnson Associates (CRJA). This portion of the park contains the depot building, major park entrances, parking areas, bike paths, play areas, an interactive fountain, and areas adjoining the proposed Cade Museum. With remediation underway, improvements being made to Depot Avenue and South Main Street, and progress on the Cade project, it is imperative that the park construction documents be completed by mid-2010 in order to expedite construction during the latter part of that year.

Summary of Previous Work Orders - CRJA Contract

WO #1 - Programming and Master Planning

WO #2 - Stakeholder Interviews

WO #3 - CRA Presentation 9/21/09

WO #4 - Stormwater Peer Review Recommendations

Work Order's #1-4 are substantially complete and address park design at the master planning level. Work Order #5 contains tasks necessary to translate these master planning elements into construction documents (including permitting approvals) for the entire north entrance to the park and the Depot Park Trail, which will span the Depot Avenue bike path and the Downtown Connector. The scope of work includes all design work, meetings, teleconferences, coordination with other consultants, coordination with city and CRA staff and preparation of construction documents.

CRJA has proposed a fee of \$205,305 with reimbursable expenses totaling \$6,160 for a grand total of \$211,465.

Proposed Schedule of Major Milestones

December 2009: Issue notice to proceed

January - April 2010: Complete Design Development

May - July 2010: Complete 100% Construction Documents

Fiscal Note: Funding for design services is available in accounts 115-800-X201 HUD EDI grant, 115-790-X150 Recreational Trails Program grant, 103-850-C350 Urban Development Action Grant (UDAG) and 103-850-C350 2005 CIRB Funds for Depot Park.

RECOMMENDATION

City Manager to the City Commission: 1) approve Work Order #5 to complete construction documents and specifications for Depot Park not to exceed \$211,465 inclusive of professional fees and reimbursable expenses; and 2) authorize the City Manager to sign all necessary documents, subject to approval, as to form and legality by the City Attorney.

GENERAL MANAGER FOR UTILITIES, CONSENT AGENDA ITEMS

090620.**Reimbursement for Oversizing of Wastewater Facilities at Christ Community Church (NB)**

Reimburse Christ Community Church of Gainesville, Inc., developer of Christ Community Church, for the oversizing of wastewater facilities in accordance with provisions of the City of Gainesville Code of Ordinances, Chapter 27-179 Oversized Facilities.

Explanation: Christ Community Church is a proposed infill/redevelopment project located in the 1500 Block of SW 122nd Street. A wastewater system must be constructed to provide wastewater service for the project.

In order to properly serve adjacent undeveloped parcels, GRU is requiring Christ Community Church of Gainesville, Inc. to construct oversized wastewater facilities. The developer's engineer accommodated this in the development design. The developer's incremental cost to oversize the wastewater system, for which reimbursement is being sought is \$52,989.58.

The recommended amount of \$52,989.58 includes all design, construction, labor, and materials associated with the wastewater system oversizing to satisfactorily complete the work.

Fiscal Note: Monies for this project are available in the FY 10 Water and Wastewater Capital Improvements Budget.

RECOMMENDATION

The City Commission to authorize the General Manager or his designee to negotiate and execute an agreement for reimbursement to Christ Community Church for the oversizing of wastewater facilities in an amount not to exceed \$52,989.58, subject to approval of the City Attorney as to form and legality.

CITY ATTORNEY, CONSENT AGENDA ITEMS**090609.****Laura Roberts f/k/a Laura Demetree and Nathan Roberts vs. City of Gainesville and United Services Automobile Association; Eighth Judicial Circuit, Court Case No. 01-2009-CA-2046 (NB)**

Explanation: On April 23, 2009, the City was served with a Summons and Complaint filed by Laura Roberts and Nathan Roberts in the Circuit Court. Ms. Roberts was struck while a pedestrian in a crosswalk by a Regional Transit System bus on the campus of the University of Florida within the city limits of the City of Gainesville.

The Complaint alleged that on April 18, 2006, Ms. Roberts was crossing Gale Lemerand Drive at the intersection with Mowry Road on a green light utilizing a crosswalk. When she was approximately halfway across the road, she was struck

by a Regional Transit System bus which was making a left turn, violating her right of way as a pedestrian.

Ms. Roberts claimed to have sustained bodily injury, loss of capacity for the enjoyment of life, aggravation of a previous condition, expenses for medical care and treatment in the future, loss of ability to earn money, mental anguish, and disability/disfigurement. Mr. Roberts is Ms. Roberts' husband and co-plaintiff, and alleged a consortium claim due to Ms. Roberts's injuries.

At a Court-mandated mediation conference, counsel for Ms. and Mr. Roberts indicated that they would seek in excess of the statutory cap of \$200,000 in damages at trial. They intended to present evidence at trial of a permanent back injury, over \$13,000 in past medical expenses, ongoing periodic treatment, and work-related limitations, as well as limitations in the performance of household-related functions. Ms. Roberts holds a doctorate degree in audiology from the University of Florida and is currently employed by the VA hospital, and her husband is an active-duty U.S. Marine. The City and Ms. and Mr. Roberts reached a settlement of \$53,500 conditioned upon approval by the City Commission. It is the recommendation of the City Attorney's Office and the Risk Management Department that the case be settled for that amount.

Fiscal Note: Funds are available in the City's General Insurance Fund.

RECOMMENDATION

The City Commission 1) approve the terms of the mediated settlement; and 2) authorize the City Attorney to settle the claim of Laura Roberts f/k/a Laura Demetree and Nathan Roberts vs. City of Gainesville and United Services Automobile Association, Eighth Judicial Circuit Case No. 2009-CA-2046, on behalf of the City.

090612.

Michael Wohl vs. City of Gainesville, U.S. District Court for the Northern District of Florida, Gainesville Division, Case No. 1:08cv149 (NB)

Explanation: In June 2008, Michael Wohl filed a complaint alleging the City violated the Fair Labor Standards Act (FLSA). Mr. Wohl alleged that he consistently worked in excess of 40 hours per week but was not paid for the overtime. He alleged that the City knew or should have known that he was working the overtime. Under federal law, employers are generally required to pay time and a half for hours worked or permitted to be worked in excess of 40 a week.

The parties have been in mediation and settlement discussions regarding the case. A settlement for the FLSA claim of Mr. Wohl in the amount of \$20,000 in past overtime wages and liquidated damages and \$34,200 in attorney fees and up to \$6,000 in taxable costs was reached in mediation, subject to the approval of the City Commission. Under the FLSA, an employer is generally obligated to pay the employee's attorneys fees and costs. It is the recommendation of the City Manager and the City Attorney's Office that the case be settled for that amount.

After these events, City Management put new timekeeping procedures in place and conducted additional training for timekeepers regarding the FLSA and its requirements.

RECOMMENDATION

The City Commission 1) approve the terms of the settlement; and 2) authorize the City Manager and the City Attorney's Office to settle the case styled Michael Wohl vs. City of Gainesville.

090607.**CLISTA BROWN vs. CITY OF GAINESVILLE; ALACHUA COUNTY CIRCUIT COURT; CASE NO.: 01-09-CA-5621 (B)**

Explanation: On November 24, 2009, the City was served with a Summons and Complaint filed by Clista Brown in the Circuit Court. Ms. Brown alleges that on May 30, 2008, she tripped and fell on uneven sidewalk in front of Alachua General Hospital. She claims to have suffered bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money, and aggravation of a previously existing condition. Ms. Brown seeks money damages in excess of \$15,000.00.

RECOMMENDATION

The City Commission authorize the City Attorney and/or Special Counsel if insurance coverage is available, to represent the City of Gainesville in the case styled Clista Brown vs. City of Gainesville; Alachua County Circuit Court; Case No.: 01-09-CA-5621.

090607_Clista_Brown_20091217.pdf

CLERK OF THE COMMISSION, CONSENT AGENDA ITEMS**090614.****City Commission Minutes (B)****RECOMMENDATION**

The City Commission approve the minutes of November 30, 2009; December 1, 2009; December 3, 2009; and re-approve the minutes of October 29, 2009, as circulated.

090614_11-30-2009_draft_20091217.pdf

090614_12-03-2009_draft_20091217.pdf

090614_10-29-2009_re-issue_20091217.pdf

EQUAL OPPORTUNITY DIRECTOR, CONSENT AGENDA ITEMS**COMMITTEE REPORTS, CONSENT AGENDA ITEMS**

AUDIT, FINANCE AND LEGISLATIVE COMMITTEE, CONSENT

090601.

City Election Issues - (Related to Ordinance #090078) (NB)

RECOMMENDATION

The City Commission approve the dates for future City Elections, as follows: 1) 2010 - Already scheduled; 2011 - Tentative March 14, 2011 election and April 11, 2011 run-off (would coincide with several municipalities); 2012 - schedule with Presidential Primary.

Legislative History

11/30/09 Audit, Finance and Recommended for Approval
 Legislative
 Committee

090601_Election Dates_20091130.pdf

090602.

Review of General Fund Forecasted Revenues and Other Sources of Funds for the Fiscal Year Ending September 30, 2010 (B)

Explanation: In accordance with Section 12(a), Budget Reviews, of Commission Resolution 970187 and our Annual Audit Plan, we have completed our review of General Fund revenue estimates as presented by the City Manager in the proposed General Government Budget for the fiscal year ending September 30, 2010.

We reviewed the forecasted General Fund Revenues and Other Sources of Funds set forth in the Fiscal Year 2009-2010 Final General Operating and Financial Plan Budget adopted by the City Commission on September 17, 2009. Our objective was to assess whether data, methods and assumptions used by the City Manager in preparing projected General Fund Revenues and Other Sources of Funds in the amount of \$99,918,554 provide a reliable and reasonable basis for the forecast.

RECOMMENDATION

The Audit, Finance and Legislative Committee recommend that the City Commission accept the City Auditor's report.

Legislative History

11/30/09 Audit, Finance and Recommended for Approval
 Legislative
 Committee

090602_GF Forecasted Revenues for FY Ending 9-30-2010_20091130.pdf

090603.

Review of Local Business Tax Revenues (B)

Explanation: In accordance with our Annual Audit Plan, we have completed a Review of Local Business Tax Revenues. Our report, which includes a response from the

City Manager, is attached for your review.

We request that the Committee recommend the City Commission accept our report and the management response. Also, in accordance with City Commission Resolution 970187, Section 10, Responsibilities for Follow-up on Audits, we request that the Committee recommend the City Commission instruct the City Auditor to conduct a follow-up review on recommendations made and report the results to the Audit, Finance and Legislative Committee.

RECOMMENDATION

The City Commission: 1) Accept the City Auditor's report and the response from the City Manager; and 2) instruct the City Auditor to conduct a follow-up review on recommendations made and report the results to the Audit, Finance and Legislative Committee.

Legislative History

11/30/09 Audit, Finance and Recommended for Approval
 Legislative
 Committee

090603_ Local Business Tax Revenues_20091130.pdf

090604.

Review of Landlord Permit Revenues - Driveway Parking Plans (B)

Explanation: In accordance with our Annual Audit Plan, we have completed a Review of Landlord Permit Revenue - Driveway Parking Plans. Our report, which includes a response from the City Manager, is attached for your review.

We request that the Committee recommend the City Commission accept our report and the City Manager's response. Also, in accordance with City Commission Resolution 970187, Section 10, Responsibilities for Follow-up on Audits, we request that the Committee recommend the City Commission instruct the City Auditor to conduct a follow-up review on recommendations made and report the results to the Audit, Finance and Legislative Committee.

RECOMMENDATION

The City Commission: 1) Accept the City Auditor's report and response from the City Manager; and 2) instruct the City Auditor to conduct a follow-up review on recommendations made and report the results to the Audit, Finance and Legislative Committee.

Legislative History

11/30/09 Audit, Finance and Recommended for Approval, as amended
 Legislative
 Committee

090604_Landlord Permit Reviews_20091130.pdf

EQUAL OPPORTUNITY COMMITTEE, CONSENT

COMMUNITY REDEVELOPMENT AGENCY, CONSENT ITEMS

END OF CONSENT AGENDA**ADOPTION OF THE REGULAR AGENDA****CHARTER OFFICER UPDATES****CLERK OF THE COMMISSION****CITY MANAGER****090572.**

City response to a Request for Interest (RFI) to submit potential projects that could be funded through an increase in the Tourism Development Tax (B)

This agenda item provides an opportunity for the City Commission to consider and approve submission of potential projects in response to an RFI that could be funded through an increase in the Tourism Development Tax.

Explanation: On November 10, 2009, the Alachua County Commission discussed a request from the Alachua County Visitors & Convention Bureau to impose an additional two percent Tourism Development Tax to fund the proposed Nations Baseball/Cooperstown Dreams Park Baseball complex in Newberry.

After lengthy discussion, the County Commission approved two related motions to: 1) direct staff to work with the Attorney to return to the Board with a process for expedited submittals by Public Entities of projects for bed tax funds by January, 2010 and 2) provide all necessary details regarding the Cooperstown Dream Park Project to the Board in January, 2010.

At the November 19, 2009 City Commission meeting, an update was provide to the Commission and the Commission discussed potential City projects.

On November 24, 2009, the County Commission approved an expedited Request for Interest (RFI) process to allow public entities to submit proposals for projects that could be funded through an increase in the Tourism Development Tax. Proposals are due by 2 p.m. on January 12, 2010. The County Commission will receive any proposals submitted in response to the RFI and any detail as requested for the Nations Baseball/Cooperstown Dreams Park Baseball complex. At a subsequent meeting, the County Commission will discuss the potential increase in the Tourism Development Tax and could decide: 1) that there are new proposals of interest and request that a full RFP process be initiated; 2) to proceed with the requested increase in the Tourism Development Tax to fund the Nations Baseball/Cooperstown Dreams Park Baseball complex; 3) do nothing and not consider increasing the Tourism Development Tax; or 4) take some other action.

There is very limited time to identify potential projects and develop a City

response to the RFI. City staff has reviewed the ideas mentioned at the November 19, 2009 City Commission meeting and brainstormed other possible projects. Staff believes the City should submit up to three possible projects that offer the greatest potential to meet the goals of the RFI, support local tourism and benefit the City including: 1) an expansion of the MLK Center; 2) a Downtown Conference Center; and 3) infrastructure and amenities that are open to the public and will accelerate construction of the Cade Museum.

Fiscal Note: The fiscal impact to the City of these projects can be determined by City staff as part of an RFP or other process if the County Commission decides there are additional projects of interest and provides direction that a full RFP or other process be initiated.

RECOMMENDATION

The City Commission hear a presentation from staff and direct the City Manager to submit three proposals in response to the RFI including: 1) an expansion of the MLK Center; 2) a Downtown Conference Center; and 3) infrastructure and amenities that are open to the public and will accelerate construction of the Cade Museum.

Legislative History

11/19/09 City Commission Discussed

090572A_Letter from Mayor_20091119.pdf
 090572B_Alachua County Agenda_20091119.pdf
 090572C_Timeline_20091119.pdf
 090572D_Impact Figures_20091119.pdf
 090572E_Memo_20091119.pdf
 090572F_Projected Growth_20091119.pdf
 090572G_Memo Finance Options_20091119.pdf

090581.

Special Assessment for Fire Services (B)

At the request of the City Commission, staff will provide a presentation regarding a potential Special Assessment for Fire Services for FY 11 and seek Commission guidance.

Explanation: During Commission discussion of the FY 10 budget, staff provided initial FY 11 budget projections showing a \$7 million budget deficit and inquired if the Commission was interested in re-examining implementation of a Special Assessment for Fire Services as a potential revenue source to support Gainesville Fire Rescue (GFR). GFR has been spared the significant budget reductions impacting most other City departments over the last three to four years. Without additional revenue, it will be very difficult to spare GFR from budget decrements in FY 11. Above and beyond GFR's existing service levels, funds will be also be needed to address recurring operating expenses of approximately \$1 million annually for Fire Station 8 when it is opened unless existing GFR resources are reassigned.

There are certain actions that must be initiated well in advance to allow a Special Assessment for Fire Services to be a viable option for FY 11. One significant step has already been completed. The Commission approved an

enabling ordinance for a Special Assessment for Fire Services in 2008 but decided not to proceed with imposition of an assessment. On September 17, 2009 the Commission approved a resolution of intent to levy a special assessment which puts the Property Appraiser and Tax Collector on notice that the City may levy a special assessment and intends to use the uniform method of collection. The City would also need to procure the services of a consultant to prepare a Special Assessment for Fire Services for Commission consideration.

The Commission requested that staff explore issues raised by the Commission and return with a presentation to address the issues and seek Commission guidance before spending significant funding and staff time working on a potential fire assessment. The issues identified by the Commission include the following:

- Creation of a general fund grant program to support non-profit organizations;*
- Update on University of Florida;*
- Variation of residential assessments based on square footage; and*
- Assessment credit for fire suppression systems.*

Staff will provide a presentation and seek Commission guidance.

Fiscal Note: If the Commission chooses to proceed with preparations for a potential Special Assessment for Fire Services, the City will procure the services of a consultant. The costs for the consultant are expected to be in the range of approximately \$35,000 - \$65,000. Other potential costs for mailing notices, etc. are expected to be approximately \$20,000. There will also be significant staff time spent working on the potential fire assessment. Funds could be appropriated from general fund fund balance.

RECOMMENDATION

The City Commission: 1) hear a presentation from staff, 2) direct the City Manager to proceed with all necessary preparations to allow for Commission consideration and potential implementation of a Special Assessment for Fire Services in FY 11 and 3) appropriate \$85,000 from the general fund fund balance to cover project costs.

090581_Power Point_20091217.PDF

GENERAL MANAGER FOR UTILITIES

CITY ATTORNEY

CITY AUDITOR

EQUAL OPPORTUNITY DIRECTOR

090618.

The Community Initiative on Race and Race Relations (B)

Explanation: In September 2006, the Office of Equal Opportunity sponsored a Race Summit to bring awareness the issue of race and institutional racism. As a result of the Summit, a consultant group was retained by the City. The group recommended the creation of a Dismantling Racism Change Team, which is comprised of a charter group of citizens and EO office employees. The Team envisioned an agenda that would examine the state of race in the City of Gainesville. This agenda would include providing equity indicators, conducting study circles, sponsoring a film festival, and dialoguing of issues related to race, race relations, and other prejudices of individuals. This effort will "Kick-Off" during M. L. King Week, and the first activity will be the film festival to be held in February and March 2010.

Fiscal Note: To be discussed.

RECOMMENDATION

The City Commission: 1) hear a presentation from EO Director Cecil Howard; and 2) adopt the proposed program.

COMMITTEE REPORTS (PULLED FROM CONSENT)

ADVISORY BOARDS/COMMITTEES (APPOINTMENTS/REPORTS)

OUTSIDE AGENCIES

MEMBERS OF THE CITY COMMISSION

COMMISSION COMMENTS (if time available)

RECESS

RECONVENE

PLEDGE OF ALLEGIANCE (5:30pm)

PROCLAMATIONS/SPECIAL RECOGNITIONS

CITIZEN COMMENT (6:00pm) - Please sign on sign-up sheet

PUBLIC HEARINGS

RESOLUTIONS- ROLL CALL REQUIRED

ADOPTION AND SECOND READING - ROLL CALL REQUIRED

090184.**COMPREHENSIVE PLAN AMENDMENT - TRANSPORTATION
CONCURRENCY EXCEPTION AREA (B)****Ordinance No. 0-09-34, Petition PZ-09-67CPA**

An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, relating to concurrency and the transportation concurrency exception area (TCEA); amending the Concurrency Management Element by revising the standards and requirements for existing TCEA zones, by creating new TCEA zones with related standards and requirements, by deleting the prohibition on TCEA zones west of I-75, by clarifying the status of annexed property, by creating trip credits for certain redevelopment projects, by creating requirements for certain developments on vacant acreage, by providing for implementation of the Bus Rapid Transit Study and express bus service, by clarifying the requirements for drive-through facilities, by requiring large developments to address regional impacts and by deleting legal descriptions of the existing TCEA zones; amending the Future Land Use Element by specifying TCEA zone requirements for annexed property and by requiring large developments to address regional impacts; amending the Transportation Mobility Element by deleting certain requirements for transportation mitigation outside of the TCEA and by providing for implementation of the Bus Rapid Transit Study and express bus service; amending the Capital Improvements Element by specifying the Concurrency Management level of service standards for the new TCEA zones and by adding new transit and transportation projects to the 5-year schedule of capital improvements; providing directions to the city manager; stating intent to adopt the amended elements as part of the City of Gainesville 2000-2010 Comprehensive Plan; providing a severability clause; providing a repealing clause; and providing an effective date.

*Explanation: PLANNING AND DEVELOPMENT SERVICES DEPARTMENT STAFF
REPORT*

On July 28, 2009, the City Commission approved this ordinance, by a vote of 6-0, for transmittal to the Florida Department of Community Affairs (DCA) for review in accordance with state law. On October 29, 2009, DCA issued its Objections, Recommendations and Comments (ORC) Report to the City. In the ORC Report, DCA objected that the comprehensive plan amendment was not in compliance with Sections 163.3177 and 163.3180, Florida Statutes, and with Rule 9J-5.005(2), Florida Administrative Code. The ORC Report states that "As proposed, , Concurrency Management Element Policies 1.1.24 and 1.1.25 and Future Land Use Element Policies 4.4.3 and 4.4.4 would allow for the City to expand the boundary of their Transportation Concurrency Exception Area (TCEA) for annexed areas, based on data and analysis intending to support the City's continued designation as a dense urban land area. However, in accordance with Section 136.3164(34), F.S., the Office of Economic and Demographic Research within the Legislature shall annually calculate the population and density criteria needed to determine which jurisdictions qualify as dense urban land areas by using the most recent land area data from the decennial census conducted by the Bureau of the Census of the United States Department of Commerce and the latest available population estimates

determined pursuant to Section 186.901, F.S. If any local government has had an annexation, contraction, or new incorporation, the Office of Economic and Demographic Research shall determine the population density using the new jurisdictional boundaries as recorded in accordance with Section 171.091, F.S. Therefore, the proposed policies are inconsistent with the provisions of Section 163.3164(34), F.S. regarding the process to annual update the list of dense urban land areas, and thus do not allow the regulation and designation of lands based upon appropriate land use and population information consistent with 163.3177(6)a); and do not establish as TCEA exemption consistent with Section 163.3180(5), F.S."

The DCA's written recommendation states: "The City should revise Concurrency Management Element Policies 1.1.24 and 1.1.25 and Future Land Use Element Policies 4.4.3 and 4.4.4. to provide for annexations to be added to the appropriate TCEA zone only after the Office of Economic and Demographic Research within the Legislature annually updates the jurisdictions which qualify as dense urban land areas. Alternatively, the City may wish to revise the policies to require data and analysis demonstrating any expansions to the TCEA meets the redevelopment criteria Chapter 163.3180(5)(b) 2. F.S. and Rule 9J-5.0055(6)(a)2. F.A.C., under which the City's original TCEA was established."

Planning staff, together with legal staff, reviewed the DCA's written recommendation and discussed the matter further with DCA staff. As a result City staff recommends revising the policies as set forth in the City staff response to the ORC report. These recommended revisions have been incorporated into Attachments 1 and 2 to the ordinance.

Pursuant to Section 163.3184(7)(a), Florida Statutes, the City has 60 days from receipt of the ORC report (in this case August 26, 2008) to "adopt the amendment, adopt the amendment with changes, or determine that it will not adopt the amendment."

Background

On June 1, 2009, SB 360 (now known as Chapter Law No. 2009-96) was signed into law. Among other things, SB 360 requires each City or County that is certified as a Dense Urban Land Area (DULA) to be automatically designated as a Transportation Concurrency Exception Area (TCEA). SB 360 defines a DULA as: (a) a municipality that has an average of at least 1,000 people per square mile of land area and a minimum total population of at least 5,000; (b) a county, including the municipalities located therein, which has an average of at least 1,000 people per square mile of land area; or (c) a county, including the municipalities located therein, which has a population of at least 1 million. The City meets the definition under (a) above, with approximately 2,064 persons per square mile of land area as of April 1, 2008 (the last official date for population estimates). Taking into account the recent Butler Plaza and SW 20th Avenue annexations in 2008 and 2009, the City still meets the DULA definition (June 1, 2009 population estimate of 131,639/62.58 square miles of city area) with approximately 2,103 persons per square mile. The City was designated as a DULA on July 8, 2009. With the adoption of SB 360 and Gainesville's DULA designation, the entire area within city limits is a TCEA.

This ordinance amends the text of the Concurrency Management Element, Future Land Use Element, Transportation Mobility Element, and Capital Improvements Element to make the City's Comprehensive Plan consistent with and implement the provisions of 2009 Senate Bill 360 (SB 360), especially as concerns transportation concurrency. A related ordinance, Legistar No. 090185, contains the map changes depicting the TCEA and sub-zones described in the policies in this ordinance.

Data and Analysis Report

The City first established a TCEA (Zones A and B) in 1999 with the adoption of the Concurrency Management Element. In 2005, Zone C was added to the TCEA by a Comprehensive Plan amendment. Those zones covered a sizable portion of the Gainesville city limits. However, as annexations occurred after 2005, the City did not extend the TCEA limits.

To clarify the TCEA discussion in this report, the following terminology will be used. "Existing TCEA" refers to TCEA Zones A, B, and C as adopted in the City's Comprehensive Plan prior to July 8, 2009. "State-mandated TCEA" refers to the areas outside of the Existing TCEA that became a TCEA upon official DULA designation by the State. "TCEA" refers to the TCEA associated with the adoption of the proposed Comprehensive Plan amendments in this ordinance and PZ-09-68 LUC.

Development in the Existing TCEA is regulated by objectives and policies in the Concurrency Management Element. In order to address the state-mandated TCEA and implement new development regulations for the overall TCEA, the City is proposing several Comprehensive Plan amendments that create new TCEA zones and requirements to support and fund mobility in the area. This is consistent with a provision in SB 360 concerning municipalities designated as DULAs. That provision states, "...shall, within two years after the designated area becomes exempt, adopt into its local comprehensive plan land use and transportation strategies to support and fund mobility within the exception area, including alternative modes of transportation."

This ordinance contains the amended and new goals, objectives, and policies associated with this Comprehensive Plan amendment. The following key strategies are incorporated into the new and amended Comprehensive Plan policies to support and fund mobility in the City's TCEA.

- 1. Incentives for redevelopment so that blight associated with vacant or abandoned buildings can be reduced and allow more dense and/or intense uses in built-up areas.*
- 2. Requirements for larger vacant parcels to contain a mix of residential and non-residential uses to facilitate a reduction in vehicle miles traveled and promote energy-efficient land use patterns.*
- 3. Adoption of new and revised standards in TCEA zones concerning mobility funding.*

4. *Incentives for infill development in built-up areas.*
5. *Requirements for new multi-family development in the University of Florida Context area (as mapped in the UF Campus Master Plan) to fund transit capital needs associated with that area.*
6. *Support for alternative modes of transportation as benefiting the overall transportation system.*
7. *Funding requirements for the construction of a new or expanded bus maintenance and operations facility to allow expansion of the Regional Transit System (RTS) service. Without the new or expanded maintenance/operations facility, RTS is constrained due to lack of ability to service additional transit vehicles. Additional transit vehicles are an important component of enhanced transit frequencies or expanded hours of transit service.*
8. *Maintaining design requirements in the TCEA as a critical component.*
9. *A tiered system of standards/requirements in the TCEA zone policies that recognizes that higher mobility funding requirements in areas more distant from the city core are necessary to support mobility in those areas and serve as an incentive for redevelopment and infill development in core areas.*

A summary of the most important changes in each element is listed below.

In the Concurrency Management Element: (1) The creation of new TCEA sub-zones and supporting standards and requirements for funding transportation mobility needs in the TCEA. Included within the standards is a new requirement for large developments generating more than 5,000 average daily trips to fund transit at 15-minute frequencies or be on an existing transit route that operates at minimum 15-minute frequencies, (2) New requirements for vacant parcels of 30 or more acres to have a mix of residential and non-residential uses with certain exceptions for infill parcels in built-up areas, (3) An increase in the allowable redevelopment trip credits as an important incentive for redevelopment, (4) Clear guidance for the City, the development community, and the public as to how annexed properties without City land use will be treated in the TCEA, and (5) Removal of the restriction on expanding the TCEA west of I-75 due to the citywide status of the Gainesville TCEA.

In the Future Land Use Element: (1) Added changes under Objective 4.4 about the treatment of annexed properties related to the TCEA, and (2) Added a new policy concerning large developments that trigger the State statutory threshold for Developments of Regional Impact (DRIs) that move forward without using the State-required DRI review process because they are exempt due to the City's dense urban land area status. The policy requires the development to address regional impacts associated with the development.

In the Transportation Mobility Element: (1) Deletion of Policy 7.1.13 concerning transportation mitigation requirements outside the TCEA, and (2) Added a policy concerning the implementation of bus rapid transit (BRT) based on route feasibility, funding availability, and financial feasibility.

In the Capital Improvements Element: (1) Added new TCEA zone policy numbers in Policy 1.2.6 concerning adopted level of service standards for transportation, and (2) Addition of new transit and transportation projects in the 5-Year Schedule of Capital Improvements.

New TCEA Zones

The City's Existing TCEA was based on a geographic system that identified different transportation mobility needs and standards. The general philosophy and practices of the Existing TCEA are carried forward in the new policies for the overall TCEA. This provides continuity and clarity that is beneficial to the City and the development community.

Zone A was identified as the area where development and redevelopment should be given the greatest incentive due to: proximity to the university; the existence of the Community Redevelopment Areas; the gridded street network, and desire to promote East Gainesville.

Zone B was identified as a market-driven area for development that was characterized as generally built-up and subject to redevelopment.

Zone C was identified as a highly market-driven area for development that was characterized by proximity to UF, major shopping facilities and being heavily served by transit. The area contains both built-up and vacant areas.

Newly created Zone D is the area west of I-75 that falls within city limits. The primary strategy in this area is support for the extension of SW 40th Boulevard from SW Archer Road to SW 47th Avenue to provide a parallel road facility for I-75 relief. Other strategies include mitigation support for the construction of a new or expanded bus maintenance/operations facility to allow expansion of the transit fleet (currently the Regional Transit System has extremely limited fleet expansion ability due to the lack of maintenance facilities). Transit will serve as a mobility strategy associated with Archer Road congestion for this area. Since this area is west of I-75, supplying transportation mobility is more difficult, and the standards are tiered to reflect this.

Zone E is the northern area of the city that primarily consists of vacant lands distant from the city core. The primary transportation mobility strategy in this area involves the widening of SR 121 (the extension of NW 34th Street) past US 441 to CR 231. This strategy is appropriate because much of the vacant land shares the use of SR 121 with truck and industrial traffic in the area. Other strategies include mitigation support for the construction of a new or expanded bus maintenance/operations facility to allow expansion of the transit fleet (currently the Regional Transit System has extremely limited fleet expansion ability due to the lack of maintenance facilities). Since this area is distant from the city core and there is no current transit service available, the standards associated with this zone are tiered to reflect the fact that supplying transportation mobility in this area is more difficult.

Zone M contains the Butler Plaza and SW 20th Avenue annexed areas that are anticipated to be more densely and intensely developed with commercial and residential uses as part of the Butler Plaza expansion and the Urban Village

overlay plan. Zone M is designated primarily as a multi-modal zone with strategies to support transit, pedestrians, bicyclists, and a more gridded street network in the area (including the extension of SW 62nd Boulevard and the construction of Hull Road as approved in Option M by the MTPO). This area is located proximate to the University of Florida (a major employer and a major trip destination). This multi-modal approach is seen as the best solution to handle mobility needs in the area due to congestion on Archer Road and SW 34th Street and the lack of roadway widening solutions for these facilities. It is also complementary to the interconnectivity between this area and the University of Florida.

Development on annexed property without a City land use designation

Development on annexed property within the state-mandated TCEA that does not have a City land use designation (either pre- or post-DULA status) shall be regulated for concurrency in accordance with Future Land Use Element Objective 4.4 and its sub-policies and Section 171.062(2), Florida Statutes, which state that such developments shall continue to be subject to the County land use plan and county zoning regulations until such time as the City adopts a Comprehensive Plan amendment that includes the annexed area. The County's transportation level of service standards and concurrency management procedures shall apply to these properties.

Additional regulations

In addition to the zone designations and mitigation requirements, there are additional policies that provide redevelopment credits in order to incentivize redevelopment over greenfield development. The special regulations for auto-oriented uses, design policies, streetscaping and landscaping requirements, and restrictions on excess parking are continued in the new TCEA.

Impact on Affordable Housing

This ordinance will not have a direct impact on the provision of affordable housing. However, since it relates to the expansion of the TCEA, more affordable housing may become available as a result of changing the strict adherence to transportation concurrency requirements, which limits development potential in areas with roads not meeting adopted LOS standards.

Public notice was published in the Gainesville Sun on June 9, 2009. The Plan Board held a public hearing June 25, 2009. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board, by a vote of 5-1, recommended that the City Commission approve Petition PZ-09-67 CPA.

On July 28, 2009, the City Commission approved the petition and this ordinance, by a vote of 6-0, for transmittal to the Florida Department of Community Affairs (DCA) for review in accordance with state law.

CITY ATTORNEY MEMORANDUM

Florida Statutes set forth the procedure for adoption of an amendment to the

Comprehensive Plan. The first hearing was held at the transmittal stage and was 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.

The proposed amendment to the Comprehensive Plan was transmitted to the State Department of Community Affairs (DCA) for written comment after the first hearing. The comments, recommendations or objections of the DCA must be considered by the Commission at the adoption hearing. At the adoption hearing, the City Commission may adopt the ordinance, adopt the ordinance as amended, or not adopt the ordinance.

Following second reading, if the ordinance is adopted or adopted with amendments, 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.

RECOMMENDATION

The City Commission (1) receive the Objections, Recommendations and Comments Report from the State Department of Community Affairs; (2) review the amendments to the ordinance, as proposed response to the DCA objection; and (3) adopt the ordinance, as amended.

Legislative History

7/28/09 City Commission Approved (Petition) and Adopted on First Reading (Ordinance), as modified (6 - 0 - 1 Absent)

090184_staff report_20090728.pdf
 090184A_amendments to PZ-09-67cpa_20090728.pdf
 090184B_staff ppt_20090728.pdf
 090184_Ordinance 0-09-34_20090728.pdf
 090184_Attachment 1_20090728.pdf
 090184_Attachment 2_20090728.pdf
 090184_Attachment 3_20090728.pdf
 090184_Attachment 4_20090728.pdf
 090184C_cpb draft minutes_20090728.pdf
 090184_draftordinance_2009121709.pdf
 090184_covermemo&exhibits_20091217.pdf

090185.

**COMPREHENSIVE PLAN AMENDMENT - TRANSPORTATION
 CONCURRENCY EXCEPTION AREA MAPS (B)**

Ordinance No. 0-09-35, Petition PZ-09-68LUC

An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, relating to the transportation concurrency exception area (TCEA); amending the Future Land Use Element map series, the Transportation Mobility Element map series and the Concurrency Management Element map series by deleting the existing TCEA maps and adopting new maps

that depict the updated TCEA and its zones; providing directions to the city manager; stating intent to adopt the amended map series within the elements as part of the City of Gainesville 2000-2010 Comprehensive Plan; providing a severability clause; providing a repealing clause; and providing an effective date.

Explanation: PLANNING AND DEVELOPMENT SERVICES DEPARTMENT STAFF REPORT

This petition is a large-scale land use amendment to amend the City of Gainesville Future Land Use map series, Transportation Mobility map series, and Concurrency Management Element map series to include updated maps that reflect the new state-mandated Transportation Concurrency Exception Area (TCEA) and its sub-zones. The new state-mandated TCEA was established pursuant to 2009 Senate Bill 360 (SB 360) and became effective upon the City of Gainesville being designated as a Dense Urban Land Area (DULA) on July 8, 2009.

The updated maps illustrate a citywide TCEA, with sub-zones, after the adoption of this Comprehensive Plan amendment and its companion amendment (PZ-09-67CPA). However, it is important to note that, consistent with Future Land Use Element Objective 4.4 and its sub-policies and Section 171.062 (2), Florida Statutes, annexed properties without City land use and zoning designations are subject to the Alachua County land use plan and zoning regulations. This would include the County's adopted Comprehensive Plan level of service standards and concurrency management regulations (as adopted in their Land Development Code). This is effective until the City adopts a Comprehensive Plan amendment changing the future land use category and a rezoning change to place a consistent City zoning on the property.

A related Comprehensive Plan amendment petition, PZ-09-67 CPA, establishes the policies which will regulate the state-mandated TCEA and sets specific requirements for the new sub-zone areas (Zones D, E, and M). Please see the Data and Analysis Report and policies related to that petition for a better understanding of the zones.

Public notice was published in the Gainesville Sun on June 9, 2009. The Plan Board held a public hearing June 25, 2009. Planning Department staff recommended that the Plan Board approve the petition. The Plan Board, by a vote of 5-1, recommended that the City Commission approve Petition PZ-09-68 LUC.

CITY ATTORNEY MEMORANDUM

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The first hearing was held at the transmittal stage and was advertised seven days prior to the first public hearing.

This ordinance was passed on first reading by the City Commission on July 28, 2009. The proposed amendment to the Comprehensive Plan was transmitted to the State Department of Community Affairs (DCA) for written comment as part of the DCA 09-2 cycle. On October 29, 2009, DCA issued its Objections, Recommendations and Comments (ORC) Report to the City. In the ORC Report, the DCA offered no objection, recommendation or comment with respect to this ordinance. A copy of the ORC Report is on file with the Clerk of the

Commission and the Department of Planning and Development Services.

Pursuant to Section 163.3184(7)(a), Florida Statutes, the City has 60 days from receipt of the ORC Report to "adopt the amendment, adopt the amendment with changes or determine that it will not adopt the amendment."

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.

RECOMMENDATION *The City Commission (1) receive the report of the Department of Community Affairs that offers no objections, recommendations or comments to this ordinance; and (2) adopt the proposed ordinance.*

Legislative History

7/28/09 City Commission Approved (Petition) and Adopted on First Reading (Ordinance) (6 - 0 - 1 Absent)

090185_staff report_20090728.pdf

090185A_staff ppt_20090728.PDF

090185_Ordinance 0-09-35_20090728.pdf

090185B_cpb draft minutes_20090728.pdf

090089

LAND USE CHANGE - TOWNHOMES OF WESTWOOD, LLC (B)

Ordinance No. 0-09-43, Petition PZ-09-129LUC

An Ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan; by changing the land use category of certain properties, as more specifically described in this ordinance, from the Alachua County land use category of "Medium High Density Residential (8-14 DU/acre)" to City of Gainesville "Residential Medium Density (8-30 units per acre)" and "Conservation," generally located southwest of the intersection of Southwest 20th Avenue and Southwest 43rd Street; providing a severability clause; providing a repealing clause; and providing an effective date.

Explanation: PLANNING AND DEVELOPMENT SERVICES DEPARTMENT STAFF REPORT

This petition is a large-scale land use amendment to change the Future Land Use category from an Alachua County designation to a City of Gainesville designation. The City of Gainesville annexed this 13.03-acre area on November 26, 2007. The subject property consists of six parcels under common ownership, all of which are currently landlocked and undeveloped. These parcels are located southwest of the intersection of SW 20th Avenue and SW 43rd Street.

This area is currently designated as Alachua County Medium High Density Residential (8 to 14 dwelling units/acre) future land use with Multiple-family, medium-high density (R-2A) zoning, which allows 8 to 14 dwelling units per

acre.

There were two City of Gainesville land uses proposed by the petitioner. On the northwestern portion of the site, 2.88 acres of Conservation land use was proposed, with the boundary established by a surveyed wetland line. South of the wetland line, 10.15 acres of Residential Medium-Density (8-30 units per acre) was proposed.

Staff recommended a modification of the boundary between the future land uses. Staff's proposal expanded the lands designated Conservation to provide additional protection for Hogtown Creek, the wetlands, and the ten-year flood channel and takes into consideration Alachua County's Strategic Ecosystem designation. The modified line is parallel to an existing, surveyed power line easement that crosses the property. The staff modification resulted in approximately 3.77 acres of designated Conservation future land use and 9.24 acres of Residential Medium-Density future land use.

Under the Alachua County Medium Density Residential (8-14 dwelling units/acre) land use designation, the applicant would be allowed from 104 to 182 units on 10.15 acres, calculated using the entire 13.03 acre site. The City proposed Residential Medium Density (8 - 30 units per acre) land use would allow a range of 74 - 277 units per acre on 9.24 acres. The higher range of the City land use would have to be achieved using either density bonus points or by Planned Development (PD) zoning district.

Public notice was published in the Gainesville Sun on April 7, 2009. The Plan Board held a public hearing on April 23, 2009, and after considerable debate regarding the environmental issues on the site, including wetlands, the ten-year flood channel, and the County's Strategic Ecosystem designation, recommended, by a vote of 6-0, that the City Commission approve the staff recommendation.

On July 2, 2009, the City Commission held a public hearing on the petition and, by a vote of 5-0, approved the petition as modified by the staff recommendation.

CITY ATTORNEY MEMORANDUM

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The first hearing was held at the transmittal stage and was advertised seven days prior to the first public hearing.

This ordinance was passed on first reading by the City Commission on August 20, 2009. The proposed amendment to the Comprehensive Plan was transmitted to the State Department of Community Affairs (DCA) for written comment as part of the DCA 09-02 cycle. On October 29, 2009, DCA issued its Objections, Recommendations and Comments (ORC) Report to the City. In the ORC Report, the DCA offered no objection, recommendation or comment with respect to this ordinance. A copy of the ORC Report is on file with the Clerk of the Commission and the Department of Planning and Development Services.

Pursuant to Section 163.3184(7)(a), Florida Statutes, the City has 60 days from receipt of the ORC Report to "adopt the amendment, adopt the amendment with changes or determine that it will not adopt the amendment."

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.

RECOMMENDATION *The City Commission (1) receive the report of the Department of Community Affairs that offers no objections, recommendations or comments to this ordinance; and (2) adopt the proposed ordinance.*

Legislative History

6/18/09 City Commission Continued (Petition) (5 - 0 - 2 Absent)
7/2/09 City Commission Approved (Petition) (5 - 0 - 2 Absent)
8/20/09 City Commission Adopted (Ordinance) on Transmittal Hearing (7 - 0)

090089_Draft Ordinance_20090820.pdf
090089_staff report_20090702.pdf
090089A_cpb minutes-20090702.pdf
090089B_staff ppt_20090702.PDF

071190.

LAND USE CHANGE - 7100 SW 41st PLACE (B)

Ordinance No. 0-08-25, Petition No. 26LUC-08PB

An Ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan; by changing the land use category of certain properties, as more specifically described in this ordinance, from the Alachua County land use category of "Recreation" to the City of Gainesville land use category of "Public Facilities" consisting of approximately 134 acres; located in the vicinity of 7100 Southwest 41st Place, commonly known as "Kanapaha Water Reclamation Facility"; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Explanation: STAFF REPORT

This petition requests a large-scale land use amendment to change the Future Land Use designation of the subject property from Alachua County Recreation to City of Gainesville Public Facilities. This area was annexed by the City on May 14, 2007, and must be brought into conformance with the City's Generalized Future Land Use Map. The annexed area is separated from City limits only by a publicly-owned County park.

The Kanapaha Water Reclamation Facility is a City-owned and -operated wastewater treatment facility that has been in operation since 1977. The 134-acre subject property is located east of Tower Road and the County's Kanapaha Park, and includes the facility, constructed infiltration wetlands (known as Chapman's Pond), and undeveloped land. The surrounding Alachua County land uses include Conservation, Medium-density Residential, and Low-Density Residential. The Public Facilities land use designation is compatible with these land uses.

Public notice was published in the Gainesville Sun on August 6, 2008. The Plan Board held a public hearing on August 28, 2008.

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 (5) days after the day that the second advertisement is published.

The State of Florida Department of Community Affairs issued a letter dated October 29, 2009, stating that the Department raises no objections to the proposed amendment. A copy of their letter is attached to this memorandum. Therefore, the City may now proceed with the final adoption of this ordinance.

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.

RECOMMENDATION

The City Commission (1) receive the report of the Department of Community Affairs that offers no objections to this ordinance; and (2) adopt the proposed ordinance.

Legislative History

4/16/09 City Commission Approved (Petition) and Adopted (Ordinance) on Transmittal Hearing (7 - 0)

071190_staff report_20090416.pdf

071190_draft ordinance_20090416.pdf

090199

LAND USE CHANGE - 1500 NORTHWEST 45TH AVENUE (B)

Ordinance No. 0-09-40, Petition PZ-09-59LUC

An Ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan; by changing the land use categories of certain properties owned by the City, as more specifically described in this ordinance, from the City of Gainesville land use categories of "Commercial," "Single-Family (up to 8 units per acre)," "Residential Low-Density (up to 12 units per acre)" and "Residential Medium-Density (8-30 units per acre)"; to the City of Gainesville land use category of "Conservation"; consisting of approximately 61.60 acres, located in the vicinity of 1500 Northwest 45th Avenue; providing a severability clause; providing a repealing clause; and providing an effective date.

Explanation: STAFF REPORT

The purpose of this petition is to amend the land use on property located at 1500

Northwest 45th Avenue, tax parcel nos. 07883-010-004 and 07883-010-005. The subject property is approximately 61.6 acres, located at 1500 Northwest 45th Avenue. The request of this petition is to change the Future Land Use designation from Commercial, Single-Family (up to 8 units per acre), Residential Low-Density (up to 12 units per acre) and Residential Medium-Density (8-30 units per acre) to Conservation. This petition includes two tax parcels. Tax parcel 07883-010-005 is approximately 61.24 acres in size, less 8.8 acres that are not part of this petition. The subject parcel of approximately 52.44 acres is located roughly north of N.W. 45th Avenue, east of N.W. 19th Street, south of N.W. 53rd Avenue and the Home Depot store at 5150 N.W. 13th Street, and west of the commercial parcels that front on N.W. 13th Street. Tax parcel 07883-010-004 is approximately 9.16 acres and lies southeast of the Home Depot store on N.W. 13th Street. It is currently vacant but was once part of a mobile home dealership. The 9.16 parcel plus the 52.44 acres of the larger parcel equal the 61.6 acres that are the subject of this petition.

The City of Gainesville purchased the subject property in 2008 with the help of the Florida Communities Trust, a division of the Department of Community Affairs (DCA). In accordance with the grant award agreement between the City and the DCA, the City has agreed to develop the property as the Hogtown Creek Headwaters Nature Park. The area will contain nature trails and boardwalks and will be managed to protect and restore the natural resources on the site, including three branches of the Hogtown Creek that flow through the subject property.

In accordance with Objective 1.1 of the Conservation Element of the City's Comprehensive Plan, this property was identified as environmentally significant and steps were taken to acquire the property. On the west and the south sides of the property, adjacent property can be characterized as low-density single-family residential use. Split-zoned properties to the east ensure residential or conservation land uses adjacent to the subject property up to the motorcycle dealership property. On the north, the Home Depot store was built under the current wetland buffer requirements, and with the knowledge that a park would likely be developed on the subject property, thus minimizing potential compatibility problems.

The proposed Conservation land use and CON zoning are compatible with the surrounding land uses. The proposed land use and subsequent zoning change will facilitate appropriate development of this property as a nature park.

Planning Division staff recommended approval of Petition PZ-09-59 LUC.

The City Plan Board reviewed the petition and recommended approval, Plan Board vote 4-0.

Public notice was published in the Gainesville Sun on June 9, 2009. The Plan Board held a public hearing on June 25, 2009.

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 (5) days after the day that the second advertisement is published.

The State of Florida Department of Community Affairs issued a letter dated October 29, 2009, stating that the Department raises no objections to the proposed amendment. A copy of their letter is attached to this memorandum. Therefore, the City may now proceed with the final adoption of this ordinance.

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.

RECOMMENDATION *The City Commission (1) receive the report of the Department of Community Affairs that offers no objections to this ordinance; and (2) adopt the proposed ordinance.*

Legislative History

8/20/09 City Commission Approved (Petition) and Adopted (Ordinance) on Transmittal Hearing (7 - 0)

090199_staff report_20090820.pdf
 090199A_maps_aerial_existing_proposed land use.pdf
 090199B_petitioner appl_workshop.pdf
 090199C_cpb minutes.pdf
 090199_draft ordinance_20090820.pdf
 090199D_staff ppt_20090820.PDF

070210.

LAND USE CHANGE - HATCHET CREEK (B)

Ordinance No. 0-07-97, Petition 23LUC-07PB

An Ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan Future Land Use Element and Future Land Use Map; by overlaying the "Planned Use District" category over certain property with the underlying land use categories of "Single-Family (up to 8 units per acre)," "Industrial," and "Recreation," as more specifically described in this ordinance, consisting of approximately 498 acres, generally located in the vicinity of Waldo Road on the East, NE 39th Avenue on the South, NE 15th Street on the West, and NE 53rd Avenue on the North; by creating and adopting Policy 4.3.5 in the Future Land Use Element of the Comprehensive Plan; providing time limitations; providing directions to the City Manager; providing a severability clause; providing a repealing clause; and providing an effective date.

Explanation: PLANNING & DEVELOPMENT SERVICES DEPARTMENT STAFF REPORT

On June 16, 2008, the City Commission approved this ordinance, by a vote of 6-0, for transmittal to the Florida Department of Community Affairs (DCA) for

review in accordance with state law. On August 26, 2008, DCA issued its *Objections, Recommendations and Comments (ORC) Report to the City*. In the ORC Report, DCA objected that the comprehensive plan amendment was not in compliance with Sections 163.3177(1), and (6)(a), Florida Statutes, and with Rule 9J-5.005(2)(g), Florida Administrative Code. The ORC Report states that "The City has proposed policy 4.3.5 to guide development on the Hatchet Creek amendment site (Ordinance 070210). As proposed, Policy 4.3.5.d is self-amending. The proposed policy would allow a different version of the Airport Noise Zone Map at the PD zoning stage from that adopted into the Comprehensive Plan through proposed Policy 4.3.5. Land development regulations and development orders are to be consistent with the adopted comprehensive plan. Allowing the PD to control land use and allowing a different version of the Airport Noise Zone map at the PD zoning ordinance stage from that included with the Comprehensive Plan is self-amending and creates potential inconsistency between the PD zoning and the Comprehensive Plan." The DCA's recommendation states: "The City should revise the policy to delete the reference to allowing the PD to control land use and allowing a different map at the PD zoning stage. The Airport Noise Zone map referenced in the Policy needs to be adopted into the plan. Alternatively the City may adopt it by reference however, the City must include the date, author and source of the map should it be adopted by reference. Any updated Airport Noise Zone map should be incorporated into the plan through the plan amendment process."

Planning staff reviewed the DCA's recommendation with legal staff and has revised Policy 4.3.5.d. in the ordinance as recommended by the DCA. In light of the City Commission adopting an ordinance revising the Airport Hazard Zoning Regulations on December 3, 2009, the substance of the revised regulations, including a new map, has been incorporated into this Ordinance. In addition, since the transmittal hearing on June 16, 2008, the Property has been added to the City's Transportation Concurrency Exception Area and is no longer governed by the Proportionate Fair Share Program. Therefore, the transportation concurrency conditions have been revised accordingly. The applicant concurs with these revisions.

Pursuant to Section 163.3184(7)(a), Florida Statutes, the City has 60 days from receipt of the ORC report (in this case August 26, 2008) to "adopt the amendment, adopt the amendment with changes, or determine that it will not adopt the amendment."

On October 16, 2008, the City Commission held a public hearing at the adoption stage on the Ordinance and, by a vote of 5-2, approved 1) continuing the Ordinance until the adoption hearing for the DCA No. 08-02 cycle pursuant to the applicants request for continuance; 2) directing staff to interact with the developer and provide an analysis on the impact of removing the age restriction - paragraph gg of the Ordinance; and 3) requesting that staff draft policies for inclusion in the Ordinance that reflect how the proposed development will meet subparagraphs 30-211 (b)(1) and (b)(7) of the City Land Development Code.

With respect to removing the age restriction, City Planning staff contacted the applicant's legal counsel to discuss the matter and received a written response dated January 12, 2009, as follows:

"The applicant is still proposing an age-restricted community and agrees that Policy (gg) should stand as written in the ordinance. The Department of Community Affairs (DCA) requires that local governments include such restrictions in the comprehensive plan itself (not just in subsequent zoning ordinances) if the restriction forms the basis for the evaluation of maximum impacts of the development."

As set forth in a memorandum from the City Attorney's Office dated October 8, 2008, if the City makes substantive changes to the ordinance at the adoption hearing that were not reviewed by the DCA in the transmittal hearing (such as removing the age restriction), and the change is not supported by the applicant's existing data and analysis or by updated and reanalyzed data and analysis, the DCA could issue a notice of intent to find the plan amendment "not in compliance" and may subject the City to state imposed remedial action or sanctions, including loss of certain state funding.

With respect to including policies in the Ordinance that reflect how the proposed development will meet the purpose and intent of the planned development district, subparagraphs 30-211 (b)(1) and (b)(7) of the City Land Development Code read as follows:

"(b) Objectives. The PD provisions are intended to promote flexibility of design and integration of uses and structures, while at the same time retaining in the city commission the absolute authority to establish limitations and regulations thereon for the benefit of the public health, welfare and safety. By encouraging flexibility in the proposals which may be considered, while at the same time retaining control in the city commission over the approval or disapproval of such proposals, the PD provisions are designed to:

(1) Permit outstanding and innovative residential and nonresidential developments with a building orientation generally toward streets and sidewalks; provide for an integration of housing types and accommodation of changing lifestyles within neighborhoods; and provide for design which encourages internal and external convenient and comfortable travel by foot, bicycle, and transit through such strategies as narrow streets, modest setbacks, front porches, connected streets, multiple connections to nearby land uses, and mixed uses."

"(7) Promote the use of traditional, quality-of-life design features, such as pedestrian scale, parking located to the side or rear of buildings, narrow streets, connected streets, terminated vistas, front porches, recessed garages, alleys, aligned building facades that face the street, and formal landscaping along streets and sidewalks."

City Planning staff contacted the applicant's legal counsel to discuss following revisions (shown in double underline) to Policy 4.3.5 ff. in response to the City Commission's direction:

ff. At the time of application for PD zoning, the owner/developer shall provide design standards generally consistent with traditional neighborhood design concepts (such as pedestrian scale, parking located to the side or rear of buildings, narrow streets, connected streets, terminated vistas, front porches,

recessed garages, alleys, aligned building facades that face the street, and formal landscaping along streets and sidewalks for all residential and non-residential uses in the PUD and, subject to City review and approval, those standards shall be specified in the PD zoning ordinance.

City Planning staff received a written response dated January 12, 2009 from the applicant's legal counsel, as follows:

"We do not believe that the new language suggested by staff should be included in the plan amendment. Despite numerous community meetings and hearings on the project, no members of the community have suggested that these are the design standards that should be applicable to the project. As originally recommended by staff, we believe that design standards are an appropriate subject of site plan approvals and that these should not be prejudged in the comprehensive plan."

On January 26, 2009, the City Commission again held the adoption hearings for the DCA No. 08-02 cycle ordinances and the agenda included the Hatchet Creek PUD Ordinance, as per the Commission action on October 16, 2008.

At the January 26, 2009 hearing, after much discussion of the status of updating the Airport Hazard Zoning Regulations including a new airport noise zone map and other matters, the Commission, by a vote of 4-3, approved 1) continuing the ordinance to the second DCA cycle of 2009, 2) requesting the petitioner submit a letter stating the path they will take upon the ordinance being continued, and 3) directed staff to work on unresolved issues.

On January 27, 2009, the applicant's legal counsel submitted a letter stating that they will work with the City toward adoption of reasonable amendments to the Airport Hazard Zoning Regulations and will update the data and analysis as necessary, before the ordinance is back before the Commission for adoption. In addition, the applicant confirmed that if DCA issues a notice of intent to find the plan amendment not in compliance, the applicant will withdraw this amendment.

On October 29, 2009, the City received the ORC report from DCA for the Cycle 09-02 land use change ordinance and, in accordance with the 60 day statutory requirement, scheduled these ordinances for adoption hearing on December 17, 2009. In accordance with the City Commission approval on January 26, 2009, this Ordinance was likewise scheduled for December 17, 2009.

On October 29, 2009, applicant's legal counsel communicated to City staff that the applicant concurs with the application of the new Airport Hazard Zoning Regulations to the property, requests that the age restricted community requirement be removed, requests that the "office and retail" limitation be lifted to allow for a broader range of Industrial uses, and again restates its understanding that the burden for updated data and analysis due to revisions is on the applicant. City staff has created a matrix that sets forth the revisions requested by the applicant and those requested by City staff for inclusion in the ordinance at this adoption reading and the staff analysis and recommendation concerning each requested revision.

CITY ATTORNEY MEMORANDUM

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The first hearing was held at the transmittal stage and was 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.

The proposed amendment to the Comprehensive Plan was transmitted to the State Department of Community Affairs (DCA) for written comment after the first hearing. The comments, recommendations or objections of the DCA must be considered by the Commission at the adoption hearing. At the adoption hearing, the City Commission may adopt the ordinance, adopt the ordinance as amended, or not adopt the ordinance.

Following second reading, if the ordinance adopted or adopted with amendments, 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.

RECOMMENDATION

The City Commission (1) receive the Objections, Recommendations and Comments Report from the State Department of Community Affairs; (2) review the amendments as proposed by City staff and the applicant; (3) amend the ordinance, as appropriate; and (4) adopt the ordinance, as amended.

Legislative History

10/22/07	City Commission	Continued (Petition) (7 - 0)
10/23/07	City Commission	Continued (Petition) (7 - 0)
10/29/07	City Commission	Approved City Plan Board's Recommendation with Conditions, as amended (4 - 3)
4/16/08	City Commission	Approved, as shown above - See Motion(s)
6/9/08	City Commission	Continued (1st Reading) (7 - 0)
6/16/08	City Commission	Adopted on First Reading, as revised (Ordinance) (6 - 0 - 1 Absent)
10/16/08	City Commission	Continued (Ordinance Adoption Reading), as amended (5 - 2)
1/26/09	City Commission	Continued (4 - 3)

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070210c_20080609.pdf
070210_200806091300.pdf
070210_20080616.pdf
070210A_200806161800.pdf
070210B_200806161800.pdf
070210_200806161300.pdf
070210A_Hatchet Creek Backup_20081016.pdf
070210_mod_Sierra_Brinkman_20090126.PDF
070210_letter_shelley_20090126.pdf
070210_draftordinance_20091217.pdf
070210_covermemo&exhibits_20091217.pdf
070210A_staff ppt_20091217.PDF

ORDINANCES, 1ST READING- ROLL CALL REQUIRED

071194.

REZONING - 7100 SW 41ST PLACE (B)

Ordinance No. 0-08-26, Petition No. 30ZON-08PB

An ordinance of the City of Gainesville, Florida, amending the Zoning Map Atlas and rezoning certain property, as more specifically described in this Ordinance, from the Alachua County zoning category of "Conservation (C-1) district" to the City of Gainesville zoning category of "PS: Public services and operations district"; to allow a public utility - wastewater treatment plant and ancillary facilities as a use permitted by right without approval of a preliminary development plan; located in the vicinity of 7100 Southwest 41st Place, commonly known as "Kanapaha Water Reclamation Facility"; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Explanation: COMMUNITY DEVELOPMENT STAFF MEMORANDUM

This petition requests a rezoning from Alachua County Conservation (C-1) to City of Gainesville Public services and operations district (PS). This area was annexed by the City on May 14, 2007, and must be brought into conformance with the City's Generalized Zoning Map.

The Kanapaha Water Reclamation Facility is a City-owned and -operated wastewater treatment facility that has been in operation since 1977. The 136-acre subject property is located east of Tower Road and the County's

Kanapaha Park, and includes the facility, constructed infiltration wetlands (known as Chapman's Pond), and undeveloped land. The annexed area is separated from City limits only by a publicly-owned County park.

The surrounding land uses include Conservation, Medium-density Residential, and Low-Density Residential. The related Petition 26LUC-08PB amends the Future Land Use Element Map series to designate the annexed property with Public Facilities land use, which is consistent with this request.

Public notice was published in the Gainesville Sun on August 6, 2008. The Plan Board held a public hearing on August 28, 2008.

RECOMMENDATION *The City Commission: 1) approve Petition No. 30ZON-08PB; and 2) adopt the proposed ordinance.*

071194_staff report_20091217.pdf

071194A_map_existing zoning_20091217.pdf

071194B_cpb minutes_20091217.pdf

071194C_staff ppt_20091217.PDF

071194_draft ordinance_20091217.pdf

090340.

REZONING - 1500 NORTHWEST 45TH AVENUE (B)

Ordinance No. 0-09-59, Petition No. PZ-09-60ZON

An ordinance of the City of Gainesville, Florida, amending the Zoning Map Atlas and rezoning certain property, as more specifically described in this Ordinance, from the City of Gainesville zoning categories of "BUS: General business district"; "RMF-5: 12 units/acre single-family/multiple-family residential district"; and "RMF-6: 8-15 units/acre multiple-family residential district" to "CON: Conservation district"; consisting of approximately 61.6 acres; located in the vicinity of 1500 Northwest 45th Avenue; providing a severability clause; providing a repealing clause; and providing an effective date.

Explanation: COMMUNITY DEVELOPMENT STAFF MEMORANDUM

This is a quasi-judicial item. The subject property is approximately 61.6 acres and includes the two tax parcels. Tax parcel 07883-010-005 is approximately 61.24 acres in size, but only 52.44 acres are part of this petition. The remaining acreage is part of two related petitions (PZ-09-61 LUC and PZ-09-62 ZON) to change land use and zoning to Recreation and PS (Public services and operations district). The vacant parcel of approximately 52.44 acres is located roughly north of N.W. 45th Avenue, east of N.W. 19th Street, south of N.W. 53rd Avenue and the Home Depot store at 5150 N.W. 13th Street, and west of the commercial parcels that front on N.W. 13th Street. Tax parcel 07883-010-004 is approximately 9.16 acres and lies southeast of the Home Depot store on N.W. 13th Street. It is currently vacant but was once part of a mobile home dealership.

The City of Gainesville purchased the subject property in 2008 with the help of the Florida Communities Trust, a division of the Department of Community Affairs (DCA). In accordance with the grant award agreement between the City

and the DCA, the City has agreed to develop the property as the Hogtown Creek Headwaters Nature Park. The area will contain nature trails and boardwalks and will be managed to protect and restore the natural resources on the site, including three branches of the Hogtown Creek that flow through the subject property.

In accordance with Objective 1.1 of the Conservation Element of the City's Comprehensive Plan, this property was identified as environmentally significant and steps were taken to acquire the property. On the west and the south sides of the property, adjacent property can be characterized as low-density single-family residential use. Split-zoned properties to the east ensure residential or conservation land uses adjacent to the subject property up to the motorcycle dealership property. On the north, the Home Depot store was built under the current wetland buffer requirements, and with the knowledge that a park would likely be developed on the subject property, thus minimizing potential compatibility problems.

The proposed CON zoning is compatible with the surrounding land uses. The proposed zoning change will facilitate appropriate development of this property as a nature park (with some active recreation and educational amenities occurring on the contiguous proposed Recreation and PS zoned area of approximately 8.8 acres).

Planning Division staff recommended approval of Petition PZ-09-60 ZON.

The City Plan Board reviewed the petition and recommended approval, Plan Board vote 4-0.

Public notice was published in the Gainesville Sun on June 9, 2009. The Plan Board held a public hearing on June 25, 2009.

RECOMMENDATION The City Commission: 1) approve Petition No. PZ-09-60ZON; and 2) adopt the proposed ordinance.

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 090340B_pet appl_neighbrhd workshop info_20091217.pdf
 090340C_cpb minutes_20091217.pdf
 090340D_staff ppt_20091217.PDF
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090529.

FALSE FIRE ALARM ORDINANCE AMENDMENTS (B)

Ordinance No. 0-09-72

An Ordinance of the City of Gainesville, Florida, relating to the City of Gainesville False Fire Alarm Ordinance; amending section 10-31, Definitions, by adding a new definition for "Deterrent system;" adding an additional exception to the definition of "False fire alarm;" providing directions to the codifier; providing a severability clause; and providing an immediate effective date.

Explanation: At its November 19, 2009 meeting, the City Commission authorized the City

Attorney to prepare and the Clerk of the Commission to advertise an ordinance amending the City of Gainesville Fire Alarm Ordinance, to allow for the exclusion of fire alarms activated by malicious pulls when the permitted owner has installed at least a two approved deterrent systems to prevent malicious pulls of the alarm. During review of the code, a reference to section 489.529, F.S., was identified that should be eliminated as it pertains to burglar alarms, and not fire alarms. Should the City Commission pass this ordinance on first reading, second and final reading will be held on January 7, 2010.

RECOMMENDATION *The City Commission adopt the proposed ordinance.*

Legislative History

11/19/09 City Commission Approved as Recommended (6 - 0 - 1 Absent)

090529_False Fire Alarm Reference_20091119.pdf

090529_Draft Ordinance_20091217.pdf

ORDINANCES, 2ND READING - ROLL CALL REQUIRED

090389.

CHANGE IN PERMITTED USE - POSSUM CREEK PARK (B)

Ordinance No.0-09-69, Petition No. PZ-09-53

An ordinance of the City of Gainesville, Florida, amending the "PS: Public services and operations district" for the public park commonly known as Possum Creek Park, to permit by right certain uses, recreational facilities and areas, trails and boardwalks, as more specifically provided in this ordinance, and accessory uses customarily and clearly incidental to the permitted principal uses; including the approval of a preliminary development plan; located in the vicinity of 4009 Northwest 53rd Avenue; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Explanation: COMMUNITY DEVELOPMENT STAFF MEMORANDUM

This petition will amend the PS (Public services and operations) zoning district for the property known as Possum Creek Park, in order to establish uses and adopt uniform development regulations that are consistent with the intended future operation of the park. The park is owned by the City of Gainesville and is located on the south side of NW 53rd Avenue, about 700 feet east of the intersection with NW 43rd Street. The western 19 acres of the park is currently zoned 'PS' (Public Services and Operations) and this is the area that is the subject of this petition. This portion of the park is mostly cleared and has been used for active recreational uses. The proposed amendment will allow for establishment of new uses on the property, specifically a skate park and an off-leash dog park. The proposed development for the site also will include a paved parking area, sidewalk system, mulched recreational path, and associated stormwater basin. The land use designation on the site will remain as 'Recreation', since this land use may be implemented by the PS zoning district under Section 30-46 of the Land Development Code.

Surrounding uses include the undeveloped portions of Possum Creek Park to the

east, institutional uses to the north across NW 53rd Avenue, and commercial development to the west at the intersection of NW 53rd Avenue and NW 43rd Street. The adjacent commercial area includes retail development in the 'MU-1' zoning district along NW 53rd Avenue and the Hunter's Crossing Planned Development. Across 53rd Avenue, there is a Gainesville Regional Utilities operations site that has a 'PS' zoning district, and Trinity United Methodist Church which has multiple zoning districts. The southern end of the subject property abuts the rear of single-family residential neighborhood with 'RSF-2' zoning. There is a vehicular drive that runs along the western side of the subject property which was constructed as part of the adjacent commercial development. This drive is currently utilized by the park as an entrance to the existing unpaved parking area. Existing uses on the park property include picnic pavilions, a playground, a restroom facility and informal recreational fields.

The City Plan Board considered Petition PZ-09-53 at a public hearing held on July 23, 2009. By a vote of 4 - 3, the City Plan Board recommended approval of the petition, on the condition that an additional neighborhood workshop be held prior to the City Commission hearing. The petitioner held the required neighborhood workshop on August 25, 2009.

Public notice for this petition was published in the Gainesville Sun on July 7, 2009. Letters were mailed to surrounding property owners on July 7, 2009.

CITY ATTORNEY MEMORANDUM

The City Commission, at its meeting of October 1, 2009, authorized the City Attorney to draft and the Clerk of the Commission to advertise the proposed ordinance rezoning the property.

RECOMMENDATION *The City Commission adopt the proposed ordinance.*

Legislative History

10/1/09	City Commission	Approved (Petition) (7 - 0)
12/3/09	City Commission	Adopted on First Reading (Ordinance) (5 - 0 - 2 Absent)

090389_staff report_20091001.pdf
 090389B_neighborhood wkshp_20091001.pdf
 090389C_prelim dev plans_20091001.pdf
 090389D_residents homeowners pet_20091001.pdf
 090389E_cpb minutes_20091001.pdf
 090389F_staff ppt_20091001.PDF
 090389A_TRC comments_20091001.pdf
 090389_petition_20091001.pdf
 090389_draft ordinance 20091203.pdf

090078.

ELECTION CODE (B)

Ordinance No. 0-09-71

An ordinance of the City of Gainesville, Florida, Chapter 9, Elections; amending Section 9-3 of the Code of Ordinances by providing that the

regular and runoff elections shall be considered as one election for purposes of poll worker training required by state law; amending Section 9-14 of the Code of Ordinances providing for the composition of the Board of Canvassers; providing directions to the Codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Explanation: The City Commission, at its meeting of October 15, 2009, authorized the City Attorney's Office to draft and the Clerk of the Commission to advertise an ordinance amending Chapter 9, Elections, of the Code of Ordinances. The City Attorney's Office is seeking approval to amend the Code to provide that the regular and runoff elections shall be considered one election for purposes of poll worker training mandated by state law. In addition, the Code section on the composition of the Board of Canvassers would be amended to provide that the Canvassing Board would be comprised of any member of the City Commission, a citizen, and the Clerk of the Commission, and provides that, in the event no member of the Commission is able to serve, the City Auditor or designee shall serve in their place.

RECOMMENDATION

The City Commission adopt the proposed ordinance.

Legislative History

5/21/09	City Commission	Referred (6 - 0 - 1 Absent)	Audit, Finance and Legislative Committee
9/28/09	Audit, Finance and Legislative Committee	Approved, as shown above	
10/15/09	City Commission	Approved as Recommended (7 - 0)	
12/3/09	City Commission	Adopted on First Reading (Ordinance) (5 - 0 - 2 Absent)	

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PLAN BOARD PETITIONS

DEVELOPMENT REVIEW BOARD PETITIONS

SCHEDULED EVENING AGENDA ITEMS

UNFINISHED BUSINESS

COMMISSION COMMENT

CITIZEN COMMENT (If time available)

ADJOURNMENT (no later than 11:00PM - Mayor to schedule date and time to continue meeting)