

MEMORANDUM
Office of the City Attorney

Legistar No. 050768

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

DATE: April 10, 2006
FIRST READING

TO: Mayor and City Commission

FROM: City Attorney

SUBJECT: Ordinance No. 0-06-38; Petition 174TCH-05 PB
An ordinance of the City of Gainesville, Florida, amending Appendix A, Section 6 of the Land Development Code, University Heights Special Area Plan; amending prohibited uses in the University Heights Special Area Plan; providing for rehabilitation centers by a Special Use Permit; amending height limits to be consistent with those in the Urban Mixed Use-2 (UMU-2) zoning district; amending the land use and building type matrix to include Urban Mixed-Use (UMU-2); providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Recommendation: The City Commission: (1) approve Petition 174TCH-05 PB, and (2) adopt the proposed ordinance.

COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

On November 28, 2005, the City of Gainesville adopted two new zoning districts—Urban Mixed Use – 1 and Urban Mixed Use – 2. The UMU-2 zoning district, which now applies to a number of parcels within the University Heights Special Area Plan, allows building heights that are taller than those allowed in the University Heights SAP. This petition proposes to amend the University Heights SAP to make it consistent with the height provisions found in the UMU-2 zoning district. This petition, therefore, recommends that the SAP height limits be increased to be consistent with the UMU height limits, by modifying the “Land Use and Building Type Matrix” as well as the appropriate building types.

The Plan Board discussed the petition and determined that, in addition to the language presented in the petition, the following additional prohibited uses should be added under P. Prohibited Uses: Standard. The following uses are prohibited:
Off-street surface parking lots as a principal use
Drive-throughs (new or expanded)

And add Q. Special Use Permit as follows:

Q. Special Use Permit:
Rehabilitation centers

Public notice was published in the Gainesville Sun on January 3, 2006. Letters were mailed to surrounding property owners on January 4, 2006. The Plan Board held a public hearing January 19, 2006. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board recommended that the City Commission approve Petition 174 TCH-05 PB, with modifications. Plan Board vote 5-0.

CITY ATTORNEY MEMORANDUM

This ordinance requires two public hearings. If adopted on first reading, the second and final reading will be held on Monday, April 24, 2006.

Fiscal Note: None

Prepared by:



Dana L. Crosby
Assistant City Attorney II

Approved and
Submitted by:



Marion J. Radson,
City Attorney

MJR:DLC:sw

ORDINANCE NO. 0-06-38

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An ordinance of the City of Gainesville, Florida, amending Appendix A, Section 6 of the Land Development Code, University Heights Special Area Plan; amending prohibited uses in the University Heights Special Area Plan; providing for rehabilitation centers by a Special Use Permit; amending height limits to be consistent with those in the Urban Mixed Use-2 (UMU-2) zoning district; amending the land use and building type matrix to include Urban Mixed-Use (UMU-2); providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, the City Plan Board authorized the publication of notice of a Public Hearing that the text of the Land Development Code of the City of Gainesville, Florida, be amended; and

WHEREAS, notice was given and publication made as required by law and a Public Hearing was then held by the City Plan Board on January 19, 2006; and

WHEREAS, pursuant to law, an advertisement no less than two columns wide by 10 inches long was placed in a newspaper of general circulation notifying the public of this proposed ordinance and of a Public Hearing in the City Commission meeting room, City Hall, City of Gainesville to be held at least 7 days after the day this first advertisement was published; and

WHEREAS, a second advertisement no less than two columns wide by 10 inches long was placed in a newspaper of general circulation notifying the public of the second Public Hearing to be held at the adoption stage at least 5 days after the day this second advertisement was published; and

1 WHEREAS, the Public Hearings were held pursuant to the published notice
2 described at which hearings the parties in interest and all others had an opportunity to be
3 and were, in fact, heard;

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

6 Section 1. Paragraph P, *Prohibited Uses*, Section IV, of § 6, Exhibit A, Special
7 Area Plan for University Heights, Appendix A, City of Gainesville Land Development
8 Code, is amended to read as follows:

9 Prohibited Uses

10 Intent. Certain uses decrease streetfront vitality and are so exclusively oriented toward or
11 designed to attract motor vehicles that they contribute to visual blight and lack of human
12 scale for a traditional area. As a result, these uses are not compatible with the University
13 Heights neighborhood.

14 Standard. The following uses are prohibited:

- 15 • Auto dealers, Auto Service and Limited Auto Services (IN-5511, MG-753)
- 16 • Carwashes (IN-7542)
- 17 • Gas Service Stations (IN-5541)
- 18 • Gasoline pumps when accessory to a Food Store (MG-54)
- 19 • Off-street surface parking lots as a principal use
- 20 • Drive-throughs (new or expanded)

21 Section 2. A new paragraph R, *Special Use Permit*, is created and added to
22 Section IV, of § 6, Exhibit A, Special Area Plan for University Heights, Appendix A,
23 City of Gainesville Land Development Code, to read as follows:

1 R. Permitted by Special Use Permit

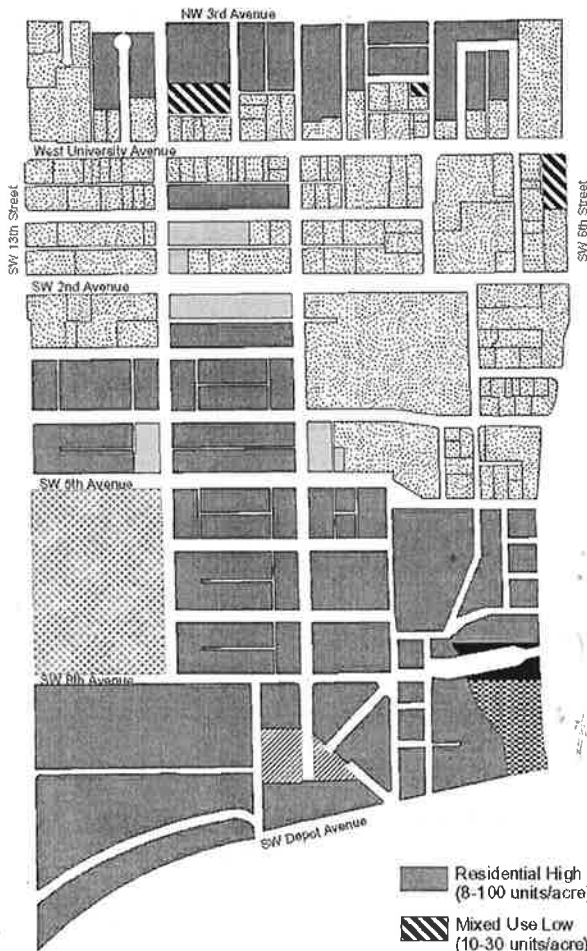
- 2 • Rehabilitation centers

3 **Section 3.** Section V, of § 6, Exhibit A, Special Area Plan for University
 4 Heights, Appendix A, City of Gainesville Land Development Code, relating to maximum
 5 height for Main Street Shopfront Building, Office Building, Rowhouse, Garden
 6 Apartment Building, Apartment Building, House, and Outbuilding, is amended to read as
 7 follows:

- 8 **Main Street Shopfront Building**
- 9 Maximum 58 ft. above grade, grade, except in the
- 10 Height UMU-2 zoning district, where Sec. 30-65.2
- 11 shall apply.
- 12
- 13 **Office Building**
- 14 Maximum 58 ft. above grade, except in the UMU-2 zoning
- 15 Height district, where Sec. 30-65.2 shall apply.
- 16
- 17 **Rowhouse**
- 18 Maximum 48 ft above grade, except in the UMU-2 zoning
- 19 Height district, where Sec. 30-65.2 shall apply.
- 20
- 21 **Garden Apartment Building**
- 22 Maximum 48 ft above grade, except in the UMU-2 zoning
- 23 Height district, where Sec. 30-65.2 shall apply.
- 24
- 25 **Apartment Building**
- 26 Maximum 48 ft above grade, except in the UMU-2 zoning
- 27 Height district, where Sec. 30-65.2 shall apply.
- 28
- 29 **House**
- 30 Maximum 48 ft above grade, except in the UMU-2 zoning
- 31 Height district, where Sec. 30-65.2 shall apply.
- 32
- 33 **Outbuilding**
- 34 Maximum 2 stories or 27 ft above grade, except in the
- 35 Height UMU-2 zoning district, where Sec. 30-65.2
- 36 shall apply. Dormers are not considered stories.
- 37

- 1 Section 4. The Land Use and Building Type Matrix, printed at section V of § 6,
- 2 Exhibit A, Special Area Plan for University Heights, Appendix A, City of Gainesville
- 3 Land Development Code, is amended to read as follows:

Land Use and Building Type Matrix



- Residential High (8-100 units/acre)
- Mixed Use Low (10-30 units/acre)
- Office
- Commercial
- Education
- Public Facilities
- Planned Use
- Recreation
- Conservation
- Urban Mixed Use 2

	Main Street Building	Office Building	Rowhouses	Garden Apartment	Large House	House	Outbuilding	Civic Building
Residential High (8-100 units/acre)			•	•	•	•	•	
Mixed Use Low (10-30 units/acre)	•	•	•	•	•	•	•	•
Office		•	•	•	•	•	•	•
Commercial	•	•	•	•			•	•
Education	•	•	•	•	•			•
Public Facilities		•						•
Planned Use	•	•	•	•	•	•	•	•
Recreation								•
Conservation								
<u>Urban Mixed Use 2</u>	•	•	•	•	•	•	•	•

1 Section 5. It is the intention of the City Commission that the provisions of
2 Sections 1, 2, 3 and 4 of this ordinance shall become and be made a part of the Code of
3 Ordinances of the City of Gainesville, Florida, and that the Sections and Paragraphs of
4 this Ordinance may be renumbered or relettered in order to accomplish such intentions.

5 Section 6. If any section, sentence, clause or phrase of this ordinance is held to
6 be invalid or unconstitutional by any court of competent jurisdiction, then said holding
7 shall in no way affect the validity of the remaining portions of this ordinance.

8 Section 7. All ordinances, or parts of ordinances, in conflict herewith are to the
9 extent of such conflict hereby repealed.

10 Section 8. This ordinance shall become effective immediately upon final
11 adoption.

12 PASSED AND ADOPTED this ____ day of _____, 2006.

13
14
15
16 _____
17 PEGEEN HANRAHAN,
18 MAYOR

19 ATTEST:

Approved as to form and legality

20
21
22 _____
23 KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

24
25 This Ordinance passed on first reading this ____ day of _____, 2006.

26 This Ordinance passed on second reading this ____ day of _____, 2006.

City of
Gainesville

Inter-Office Communication

Planning Division
X5022, FAX x2282, Station 11

Item No. 3

TO: City Plan Board

DATE: January 19, 2006

FROM: Planning Division Staff

SUBJECT: Petition 174TCH-05 PB. City of Gainesville. Amend the University Heights Special Area Plan to create height limits consistent with the Urban Mixed Use-2 Zoning that has been established on certain properties in this neighborhood, and correct prohibited use provisions.

Recommendation

Staff recommends approval of Petition 174TCH-05 PB.

Explanation

On November 14, 2005, the City of Gainesville adopted two new zoning districts—Urban Mixed Use – 1 and Urban Mixed Use – 2. The UMU-2 zoning district, which now applies to a number of parcels within the University Heights Special Area Plan, allows building heights that are taller than those allowed in the University Heights SAP. This petition proposes to amend the University Heights SAP to make it consistent with the height provisions found in the UMU-2 zoning district. This petition, therefore, recommends that the SAP height limits be increased to be consistent with the UMU height limits, by modifying the “Land Use and Building Type Matrix” as well as the appropriate building types.

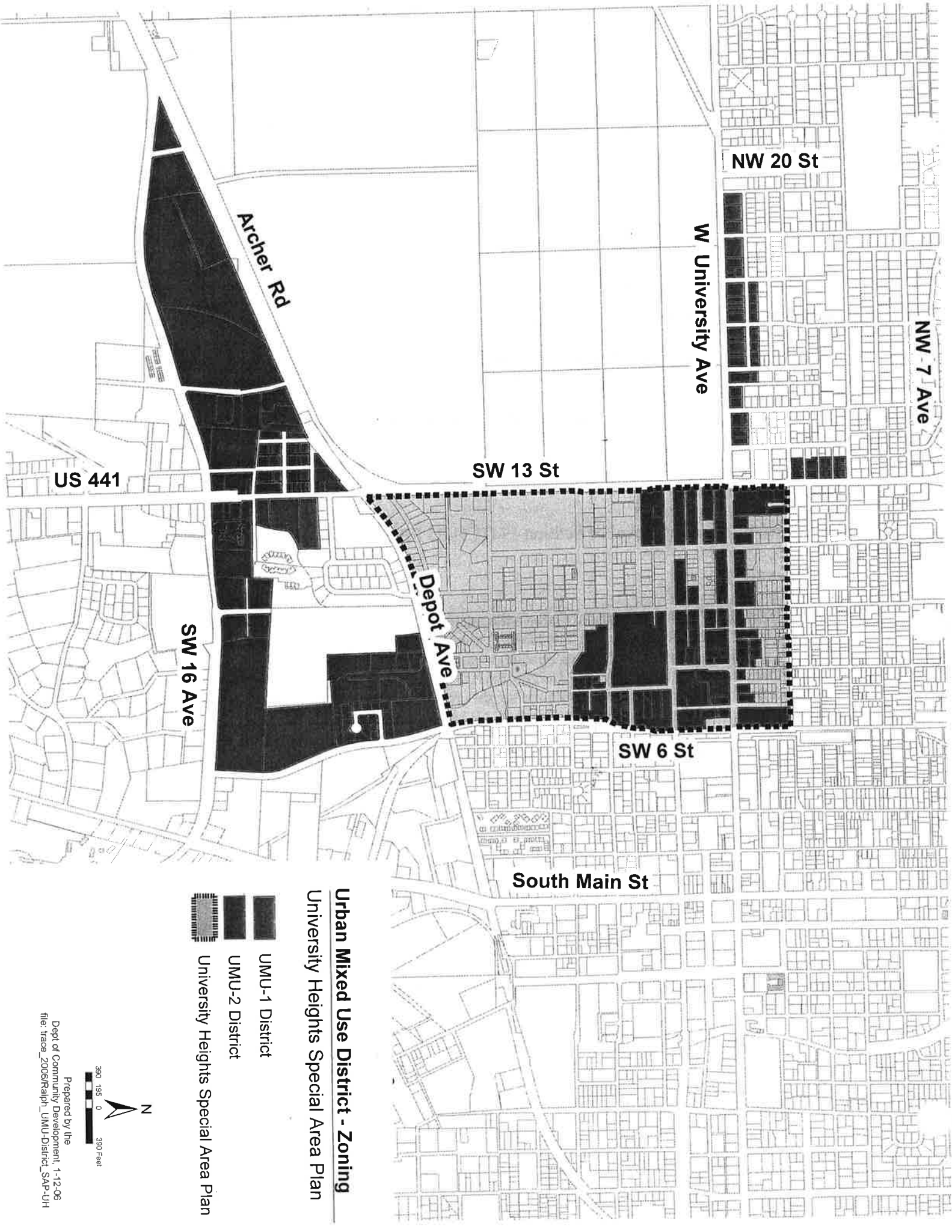
Respectfully submitted,






Ralph Hilliard
Planning Manager

DM:DN

Attachments
Proposed Amendments to the University Heights Special Area Plan
Map of the Area



Urban Mixed Use District - Zoning
University Heights Special Area Plan

-  UMU-1 District
-  UMU-2 District
-  University Heights Special Area Plan



Appendix A. Section 6

SPECIAL AREA PLAN FOR UNIVERSITY HEIGHTS

V. Building Types

New buildings under this Special Area Plan are regulated by building type. They are mandatory for the University Heights Neighborhood as delineated in the map at the end of subsection V.

On the following pages, diagrammatic examples are used to illustrate intended, advisory building locations, configurations and dimensions. The accompanying numbers and text are rules. Architectural style is not regulated; the graphics are illustrative only.

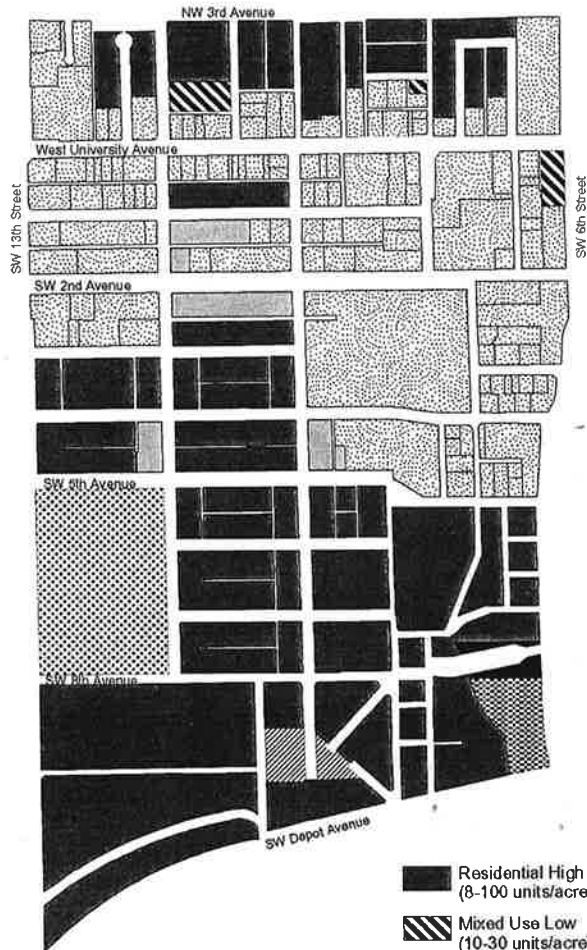
Building types can be built within the appropriate Land Use Category.










The following building types are described in this code:

- Main Street Shopfront Building
- Office Building
- Rowhouse
- Garden Apartment
- Large House or Apartment Building
- House
- Outbuilding
- Civic Building

Land Use and Building Type Matrix

Land Use and Building Type Matrix



-  Residential High (8-100 units/acre)
-  Mixed Use Low (10-30 units/acre)
-  Office
-  Commercial
-  Education
-  Public Facilities
-  Planned Use
-  Recreation
-  Conservation
-  Urban Mixed Use 2

	Main Street Building	Office Building	Rowhouses	Garden Apartment	Large House	House	Outbuilding	Civic Building
Residential High (8-100 units/acre)			*	*	*	*	*	
Mixed Use Low (10-30 units/acre)	*	*	*	*	*	*	*	*
Office		*	*	*	*	*	*	*
Commercial	*	*	*	*	*	*	*	*
Education	*	*	*	*	*	*	*	*
Public Facilities		*						*
Planned Use	*	*	*	*	*	*	*	*
Recreation								*
Conservation								
Urban Mixed Use 2	*	*	*	*	*	*	*	*

Main Street Shopfront Building



A shopfront building is a basic unit of a traditional mixed-use street. It is sited at the front property line and features a ground floor that is roughly level with the sidewalk. The ground floor façade of the street has a large amount of transparent window and door openings.

Maximum Height	58 ft above grade, <u>except in the UMU-2 zoning district, where Sec. 30-65.2 shall apply.</u>
Minimum Height	2 stories at least 27 ft above grade. Dormers are not considered stories.
First Story Elevation	10 ft floor to ceiling minimum.

Office Building

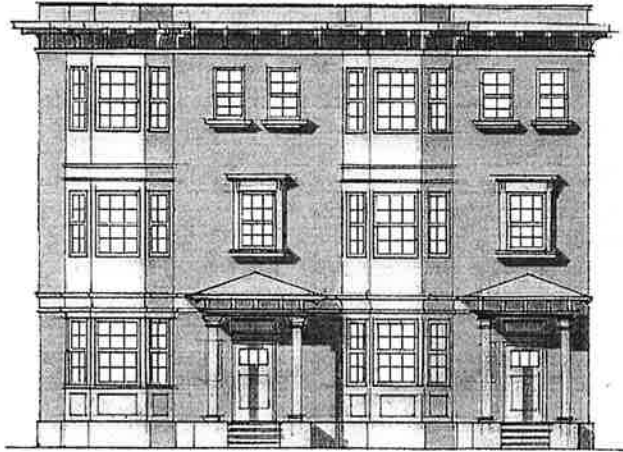
An office building is appropriate to line wider thoroughfares. It is placed towards the front of its lot and features a first story roughly level with the sidewalk.



Maximum Height	58 ft. above grade, <u>except in the UMU-2 zoning district, where Sec. 30-65.2 shall apply.</u>
Minimum Height	2 stories at least 27 ft above grade. Dormers are not considered stories.
First Story Elevation	10 ft floor to ceiling minimum.

Rowhouse

A rowhouse is placed towards the front of the lot and shares one or more common walls with its neighboring units. Entry is usually through a covered stoop. A rowhouse can be a residence for one or 2 families, or apartments, or a combination.



Maximum Height	48 ft above grade, <u>except in the UMU-2 zoning district, where Sec. 30-65.2 shall apply.</u>
Minimum Height	2 stories at least 24 ft above grade. Dormers are not considered stories.
First Story Elevation	1.5 ft above grade, minimum (4 ft recommended). When building is below grade of street, building design shall elevate windows or use other strategies to maintain privacy.

Garden Apartment Building



A garden apartment building shares a central stair core for 2 bays. The building is placed towards the front of the lot and does not share common walls with its neighboring units. Entry is typically through a covered stoop. A backyard or “garden” is shared behind the building.

Maximum Height	48 ft above grade, <u>except in the UMU-2 zoning district, where Sec. 30-65.2 shall apply.</u>
Minimum Height	2 stories at least 27 ft above grade. Dormers are not considered stories.
First Story Elevation	1.5 ft above grade, minimum (4 ft recommended). When building is below grade of street, building design shall elevate windows or use other strategies to maintain privacy.

Apartment Building

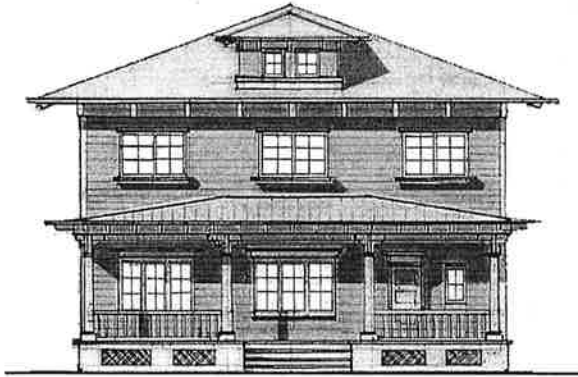


An Apartment Building is detached and has separate apartment units.

Maximum Height	48 ft above grade, <u>except in the UMU-2 zoning district, where Sec. 30-65.2 shall apply.</u>
Minimum Height	2 stories at least 27 ft above grade. Dormers are not considered stories.
First Story Elevation	1.5 ft above grade, minimum (4 ft recommended). When building is below grade of street, building

design shall elevate windows or use other strategies to maintain privacy.

House

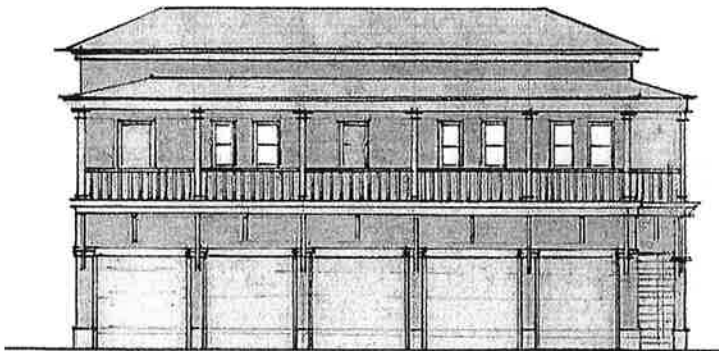


A House is suited for smaller lots. A house is detached and has yard on all 4 sides.

Maximum Height	48 ft above grade, <u>except in the UMU-2 zoning district, where Sec. 30-65.2 shall apply.</u>
Minimum Height	12 ft above grade
First Story Elevation	1.5 ft above grade, minimum (4 ft recommended). When building is below grade of street, building design shall elevate windows or use other strategies to maintain privacy.

Outbuilding

Outbuildings are located in the rear of the lot. These buildings are behind the principal structure, at the rear of the lot. They may have parking, apartments, storage and trash receptacles.



Maximum Height	2 stories or 27 ft above grade. Dormers are not considered stories, <u>except in the UMU-2 zoning district, where Sec. 30-65.2 shall apply.</u>
Minimum Height	1 story or 13 ft above grade

P. Prohibited Uses:

Intent. Certain uses decrease streetfront vitality, and are so exclusively oriented toward or designed to attract motor vehicles, that they contribute to visual blight, and lack of human scale for a traditional area. As a result, these uses are not compatible with the University Heights neighborhood.

Standard. The following uses are prohibited:

- Auto dealers, Auto Service and Limited Auto Services (IN-5511, MG-753)
- Carwashes (IN-7542)
- Gas Service Stations (IN-5541)
- Gasoline pumps when accessory to a Food Store (MG-54)
- Off-street surface parking lots as a principal use
- Drive-throughs (new or expanded)

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Q. Special Use Permit:

- Rehabilitation centers

3. **Petition 174TCH-05 PB** City Plan Board. Amend the University Heights Special Area Plan to create height limits consistent with the Urban Mixed Use-2 Zoning that has been established on certain properties in this neighborhood, and correct prohibited use provisions.

Mr. Dom Nozzi was recognized. Mr. Nozzi indicated that he would address Petitions 170, 174, and 175TCH-05 PB simultaneously. He explained that the City recently established two new zoning districts, UMU-1 and UMU-2. He pointed out those districts on a map, and noted the new zoning districts affected the College Park, University Heights, and SW 13th Street Special Area Plans. He indicated that the overlays, the special area plans, overrode the underlying zoning regulations when there was conflict between the two. He explained that, because of some of those conflicts, City objectives for certain things were not being achieved. Mr. Nozzi indicated that the purpose of the petitions was to make the overlays and the new zoning districts consistent. He noted that the UMU District's height limits were taller than the special area plans, therefore, the special area plans needed to be changed to reflect those taller heights. He indicated that use provisions needed to be changed, including more clearly stating that drive-throughs and stand-alone surface parking were not allowed in College Park, and surface parking as a primary use was not allowed in the University Heights Districts. Mr. Nozzi noted that the proposal was to make drive-throughs a prohibited use in University Heights, and requiring a Special Use Permit for rehabilitation centers, which would make the Special Area Plan compatible with the UMU Districts. He indicated that auto dealers, auto service, limited auto services, carwashes, gas service stations, and gasoline pumps, when accessory to a Food Store, would also be prohibited in the College Park District. He offered to answer any questions from the board.

At the request of the board, Mr. Mimms read the text of the definition of rehabilitation center and indicated that the language was in the process of being revised.

Mr. Reiskind asked if it was possible to have a supermarket within walking distance in the University Heights District. He cited a concern that the minimum 2-story building heights might be a constraint on such a use.

Mr. Nozzi indicated that there were some grocery chains that did have multi-story markets in higher density cities where there was a lot of residential within walking distance, however, he did not believe it was a common practice. He agreed that a 2-story minimum might discourage certain types of retail establishments in the neighborhoods, however, staff had not done a detailed analysis of the issue. He noted that it was quite common for cities to establish 2-story minimum land development regulations for commercial buildings. He explained that it was to create a sense of enclosed outdoor room space. Mr. Nozzi stated that, in his opinion, he did not believe there was enough density in College Park and University Heights to support a viable grocery retail.

Mr. Mimms pointed out that there were criteria to allow exceptions in the College Park Plan, and a waiver from compliance provision in the University Heights Plan.

Mr. Cohen noted that some of the prohibited uses already existed in the College Park and University Heights Districts. He asked what would happen if one of those uses wished to remodel or rebuild.

Mr. Nozzi indicated that non-conforming uses were restricted. He explained that a non-conforming use could not expand or improve their operation.

These minutes are not a verbatim account of this meeting. Tape recordings from which the minutes were prepared are available from the Community Development Department of the City of Gainesville.

Mr. Mimms explained that, should a non-conforming property suffer some damage and 80 percent destroyed, it could not be rebuilt. He noted that minor changes could be made, if necessary.

Mr. Cohen asked if the owners of the businesses had been notified of the proposed changes.

Mr. Nozzi indicated that he was unsure if there was a threshold of property owners to be notified.

Mr. Mimms indicated the petition involved text changes, not rezoning changes, so it received the basic advertising.

Chair Cole opened the floor to public comment.

Ms. Linda Portal, Planning Consultant for the Diocese of St. Augustine, was recognized. Ms. Portal discussed the petition and increased density in Mixed Use areas. She explained that the church did lease out surface parking during the day and she wished the clarification that the changes in the College Park Overlay were not intended to curtail that use. She indicated that it was not a stand-alone use, but she did wish to speak to the matter. She noted that the site had split zoning.

Mr. John Fleming, Tri Mark Properties, was recognized. Mr. Fleming asked if the 10-foot requirement for the sidewalk in the UMU District allowed for street trees to be in the 10 feet. He cited a concern that, on some streets in the UMU District, it would be difficult to provide a 10-foot sidewalk and street trees.

Mr. Nozzi explained that, as long as there was 5 feet clear width, street trees could be planted in tree wells.

Chair Cole closed the floor to public comment.

Mr. Mimms indicated that, after review of the files, it appears that all of the property owners involved in the districts were notified of the actions to be taken.

<u>Motion By:</u> Mr. Reiskind	<u>Seconded By:</u> Mr. Gold
<u>Moved to:</u> Approve Petition 174TCH-05 PB	<u>Upon Vote:</u> Motion Carried 5 – 0 Aye: Cohen, Polshek, Reiskind, Gold, Cole