



# MEMORANDUM

Office of the City Attorney

LEGISLATIVE ITEM NO. 040921

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

TO: Mayor and City Commission

DATE: June 13, 2005

FROM: City Attorney

CITY ATTORNEY  
ADOPTION READING

SUBJECT: Ordinance No. 0-05-40, Petition 199LUC-04PB

An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Map; by changing the land use category of certain undesignated right-of-way property to "Mixed-Use Low-Intensity (8-30 units per acre)"; located in the vicinity of the Northwest Corner of Southeast 2<sup>nd</sup> Avenue and Williston/Waldo Roads; providing a severability clause; providing a repealing clause; and providing an effective date.

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**Recommendation:** The City Commission adopt the proposed ordinance.

## STAFF REPORT

This petition is related to zoning petition 200ZON-04 PB and street vacation petition 196SVA-04 PB. The undesignated right-of-way is approximately 0.43-acres in size and is located at the Northwest corner of Southeast 2<sup>nd</sup> Avenue and Williston/Waldo Road. The property currently has no zoning or land use designation. To the north of the site is the right-of-way to be vacated by Petition 196SVA-04 PB. North of this right-of-way is the existing Education Child Care Center with a land use of MUL (Mixed-Use Low-Intensity, 8-30 units per acre) and a zoning designation of MU-1 (8-30 units/acre mixed use low intensity district). The owner of the child care center would like to purchase the unclassified land for the purpose of expansion. South of the subject property is Southeast 2<sup>nd</sup> Avenue, while to the east is Williston/Waldo Road. The bicycle rail trail borders the subject property on the west side.

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

Public notice was published in the Gainesville Sun on February 1, 2005. Letters were mailed to surrounding property owners on February 2, 2005. The Plan Board held a public hearing February 17, 2005. The City Commission heard and approved this petition March 14, 2005.

## CITY ATTORNEY MEMORANDUM

The proposed amendment to the Comprehensive Plan is treated as a small scale development activity. After the City Commission adopts the ordinance, it will be filed with the State Land Planning Agency. The state land planning agency does not review or issue a notice of intent for small scale development amendments. Any affected person may file a petition with the State

Division of Administrative Hearings to request a hearing to challenge the compliance of a small scale development amendment within 30 days following the City's adoption of the amendment.

Small scale development amendments do not become effective until 31 days after adoption. If challenged within 30 days after adoption, small scale development amendments shall not become effective until the state land planning agency or the Administration Commission issues a final order that the adopted small scale development amendment is in compliance.

Prepared and  
submitted by:

  
Marion J. Radson, City Attorney

MJR/afm

Attachment

ORDINANCE NO. 0-05-40

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4       **An ordinance amending the City of Gainesville 2000-2010**  
5       **Comprehensive Plan, Future Land Use Map; by changing the**  
6       **land use category of certain undesignated right-of-way property**  
7       **to “Mixed-Use Low-Intensity (8-30 units per acre)”;** located in  
8       **the vicinity of the Northwest Corner of Southeast 2<sup>nd</sup> Avenue**  
9       **and Williston/Waldo Roads; providing a severability clause;**  
10       **providing a repealing clause; and providing an effective date.**

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13       **WHEREAS**, publication of notice of a public hearing was given that the Future Land Use  
14 Map be amended by changing the land use category of certain undesignated right-of-way property,  
15 as more specifically described herein, to “Mixed-Use Low-Intensity (8-30 units per acre)”;

16       **WHEREAS**, notice by the Plan Board was given and publication made as required by law  
17 and a public hearing was held by the City Plan Board on February 17, 2005; and

18       **WHEREAS**, notice was given and publication made of a public hearing which was then  
19 held by the City Commission on March 14, 2005; and

20       **WHEREAS**, the amendment to the land use category of the City of Gainesville 2000-2010  
21 Comprehensive Plan proposed herein directly relates to a small scale development activity as  
22 provided in Chapter 163, Florida Statutes; the City of Gainesville will transmit copies of the public  
23 notice and this proposed change to the State Land Planning Agency, the regional planning council,  
24 and any other person or entity who has requested a copy for their comments subsequent to the  
25 passage of this ordinance; and

DRAFT

5/20/2005

1       **WHEREAS**, at least ten (10) days notice has been given of a public hearing once by  
2 publication in a newspaper of general circulation notifying the public of this proposed ordinance  
3 and of a Public Hearing in the City Commission meeting room, First Floor, City Hall in the City of  
4 Gainesville; and

5       **WHEREAS**, pursuant to law, notice has also been given by mail to the owner whose  
6 property will be regulated by the adoption of this Ordinance, 30 days prior to the date set for a  
7 public hearing on this ordinance; and

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

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

13       **Section 1.** The Future Land Use Map of the City of Gainesville 2000-2010 Comprehensive  
14 Plan is amended by changing the land use category of undesignated right-of-way to "Mixed-Use  
15 Low-Intensity (8-30 units per acre)", as more specifically shown on the map attached hereto as  
16 Exhibit "A", and made a part hereof as if set forth in full.

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

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

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

6       **Section 5.** This ordinance shall become effective immediately upon passage; however, the  
7 amendment to the City of Gainesville 2000-2010 Comprehensive Plan shall become effective thirty  
8 one (31) days after passage and adoption of this Ordinance unless a petition is filed with the  
9 Division of Administrative Hearings pursuant to § 163.3187(3), F.S. In this event this Ordinance  
10 shall not become effective until the state land planning agency issues a final order determining the  
11 adopted amendment to be in compliance in accordance with § 163.3187, or until the Administration  
12 Commission issues a final order determining the adopted amendment to be in compliance in  
13 accordance with S.163.3187, F.S.

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

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

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
KURT LANNON,

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

**DRAFT**

**5/20/2005**

1 CLERK OF THE COMMISSION

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3 This ordinance passed this \_\_\_\_ day of \_\_\_\_\_, 2005.

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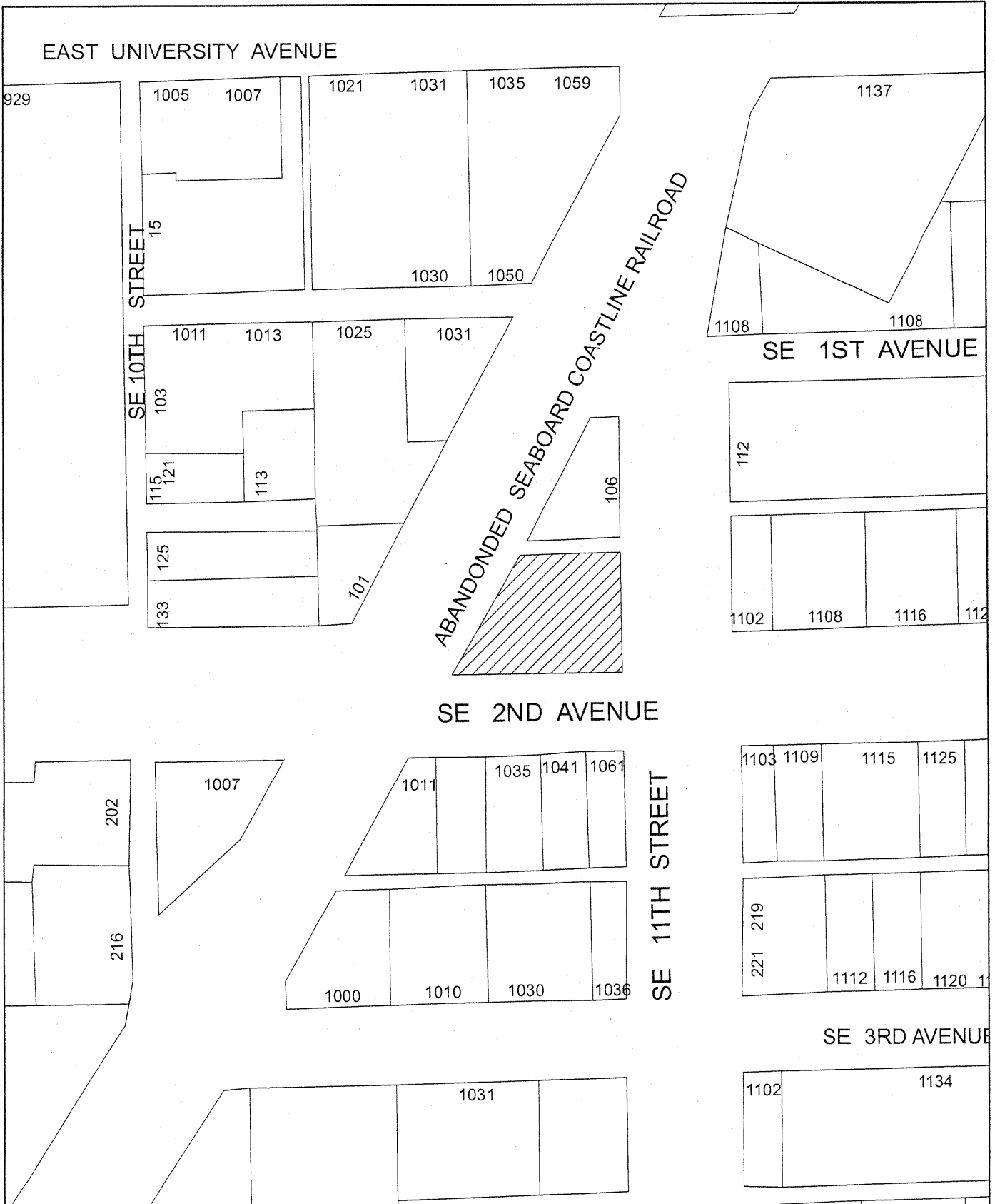
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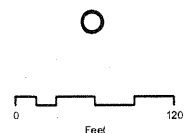
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# LOCATION MAP FOR PETITION 199LUC-04PB



Petition Area

Prepared by the Dept. of Comm. Dev./050205 File: 199LUC-04PB



## EXHIBIT "A"

**0001****LEGALS****ADVERTISEMENT  
NOTICE OF PROPOSED  
ENACTMENT OF ORDINANCE BY CITY COMMISSION, GAINESVILLE, FLORIDA**

Notice is hereby given that the proposed ordinance, whose title appears below will be considered for Adoption Reading on the 13th day of June, 2005, at the City Commission meeting. The meetings begin at 6:00 p.m. and the ordinances will be read as soon thereafter as may be heard. The meetings are held in the City Commission Auditorium, on the First Floor of City Hall, 200 East University Avenue, Gainesville, Florida. A copy of said ordinance may be inspected by any member of the public at the office of the Clerk of the Commission on the First Floor of City Hall during regular business hours located at 200 East University Avenue, Gainesville, Florida, and at the Public Library, Main Branch, located at 401 East University Avenue. On the dates mentioned above all interested parties may appear at the meeting and be heard with respect to the proposed ordinance. Persons with disabilities, who require assistance to participate in the meetings, are requested to notify the Equal Opportunity Office at 334-5051 or call the TDD phone line at least 2 business days in advance.

**ORDINANCE TITLE**  
Ordinance 0-05-40

An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Map, by changing the land use category of certain undesignated right-of-way property to "Mixed-Use Low Intensity (8-30 units per acre)", located in the vicinity of the Northwest Corner of Southeast 2nd Avenue and Williston/Waldo Roads; providing a severability clause; providing a repealing clause; and providing an effective date.

Note: "All persons are advised that, if any person decides to appeal any decision made at any of these meetings, they will need a record of the proceedings and, for such purpose, they need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based."

June 3, 2005  
Publish Date

Clerk of the Commission

27566, 6/3/05  
#A00000424