

ORDINANCE NO. 120370

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3 **An ordinance of the City of Gainesville, Florida, amending the City’s**
4 **Comprehensive Plan pursuant to the periodic evaluation and**
5 **appraisal process set forth in Section 163.3191, Florida Statutes, to**
6 **comply with changes to Florida Statutes, address changes in local**
7 **conditions, correct internal inconsistencies, and provide clarification**
8 **to objectives and policies; by amending the Future Land Use Element**
9 **and the Future Land Use Map Series; by amending the**
10 **Transportation Mobility Element and the Transportation Mobility**
11 **Map Series; by deleting the Concurrency Management Element; by**
12 **amending the Housing Element; by amending the Conservation, Open**
13 **Space & Groundwater Recharge Element; by amending the Capital**
14 **Improvements Element; by amending the Intergovernmental**
15 **Coordination Element; by amending the Public Schools Facilities**
16 **Element; by providing directions to the City Manager; providing a**
17 **repealing clause; providing a severability clause; and providing an**
18 **effective date.**

19
20 **WHEREAS**, the Governor of Florida signed House Bill 7207, known as the
21 “Community Planning Act” (codified as Section 163.3161 *et seq.*, Florida Statutes), into law
22 effective June 2, 2011; and

23 **WHEREAS**, Section 163.3191, Florida Statutes, requires that at least every seven
24 years, a local government shall determine whether the need exists to amend its
25 comprehensive plan to reflect changes in state requirements since the last time the
26 comprehensive plan was updated; and

27 **WHEREAS**, the Evaluation and Appraisal Notification Schedule, published by the
28 Florida Department of Economic Opportunity (DEO) in its capacity as the state land
29 planning agency, required that the City of Gainesville submit notice to DEO by May 1, 2012,
30 with a determination whether the City of Gainesville Comprehensive Plan will need to be
31 amended to comply with new state requirements since the last time it was updated; and

32 **WHEREAS**, the City sent its notice to DEO via a letter dated April 9, 2012, advising

1 that the City of Gainesville's Comprehensive Plan will need to be amended in order to
2 comply with the new state requirements; and

3 **WHEREAS**, the City received a letter from DEO dated April 10, 2012, indicating
4 that the City should transmit the proposed amendments to DEO by May 1, 2013; and

5 **WHEREAS**, the proposed amendments to the City of Gainesville Comprehensive
6 Plan shall be transmitted, adopted, and reviewed pursuant to the state coordinated review
7 process as prescribed in Subsection 163.3184(4), Florida Statutes; and

8 **WHEREAS**, the proposed amendments to the City of Gainesville Comprehensive
9 Plan address changes to Florida Statutes, address changes in local conditions, correct internal
10 inconsistencies, and provide clarification to objectives and policies as necessary for the 2013-
11 2023 planning period; and

12 **WHEREAS**, the Florida Legislature in 1985 adopted the "Growth Management Act"
13 to provide a framework for local governments to develop long-range comprehensive plans.
14 One of the major provisions of this act required local governments to ensure that the public
15 facilities and services needed to support development be available "concurrent" with the
16 impacts of development, meaning all new development must be located where existing
17 services were available or where there are plans and funds to provide these services; and

18 **WHEREAS**, the City recognized that denying development orders based on
19 transportation concurrency would promote urban sprawl and discourage redevelopment in the
20 City, and that widening roads to resolve transportation concurrency issues was not feasible
21 or desirable in certain areas due to: the lack of right-of-way or excessive cost of obtaining
22 right-of-way; the negative impacts of road widening in pedestrian-oriented areas; and the

1 City’s focus on multi-modal transportation solutions, which led the City in 1999 to create its
2 first Transportation Concurrency Exception Area (TCEA) in two core zones and to add a
3 third zone in 2005; and

4 **WHEREAS**, the City has always viewed its TCEA as an alternative (i.e., a different
5 solution) to transportation concurrency requirements, as the TCEA focused on the provision
6 of a range of multi-modal transportation solutions to serve development and not solely on
7 roadway widening and modifications. In addition, it provided the developer with the
8 flexibility to choose from a range of solutions that make sense for its project and to choose
9 whether to construct the improvements as part of its project or provide funds to the City; and

10 **WHEREAS**, the Florida Legislature in 2009 adopted Senate Bill 360, known as the
11 “Community Renewal Act,” under which the City met the definition of a “dense urban land
12 area” and therefore the entirety of the City was designated by the state as a TCEA; and

13 **WHEREAS**, the City in 2009 adopted amendments to its Comprehensive Plan and to
14 its Land Development Regulations to comply with the mandates of the 2009 Community
15 Renewal Act and extend its TCEA provisions throughout the City; and

16 **WHEREAS**, the 2011 Community Planning Act, among other things, made
17 transportation concurrency optional but provides that if a local government voluntarily
18 implements transportation concurrency, it must allow a developer to satisfy its transportation
19 concurrency requirement by paying a proportionate fair share fee that is calculated based on
20 roadway trips and uses roadway solutions; and

21 **WHEREAS**, the 2011 Community Planning Act also encouraged local governments
22 “to develop tools and techniques to complement the application of transportation

1 concurrency such as: 1. Adoption of long-term strategies to facilitate development patterns
2 that support multimodal solutions, including urban design, and appropriate land use mixes,
3 including intensity and density. 2. Adoption of an areawide level of service not dependent
4 on any single road segment function. 3. Exempting or discounting impacts of locally desired
5 development, such as development in urban areas, redevelopment, job creation, and mixed
6 use on the transportation system. 4 Assigning secondary priority to vehicle mobility and
7 primary priority to ensuring a safe, comfortable, and attractive pedestrian environment, with
8 convenient interconnection to transit. 5. Establishing multimodal level of service standards
9 that rely primarily on nonvehicular modes of transportation where existing or planned
10 community design will provide adequate level of mobility. 6. Reducing impact fees or local
11 access fees to promote development within urban areas, multimodal transportation districts,
12 and a balance of mixed-use development in certain areas or districts, or for affordable or
13 workforce housing.”; and

14 **WHEREAS**, rescinding transportation concurrency without providing an alternative
15 or complementary program would create issues with provisions of state law (namely
16 Subsections 163.3177(3) and (6), Florida Statutes) that continue to require that adequate
17 public facilities be in place or planned; and

18 **WHEREAS**, the City Commission does not desire to deny development approvals
19 based on a lack of adequate transportation public facilities, nor does the City have the
20 resources to fund and construct all of the transportation public facilities that would be
21 necessary to serve development; and

Associated Petitions, by Petition No. and Legistar No.: PB 12-112 CPA (120639); PB 12-134 CPA (120638);
PB 12-132 CPA (120648); PB 12-133 CPA (120646); PB 12-98 CPA (120428); PB 12-61 CPA (120227); PB
12-114 CPA (120523); PB 12-99 CPA (120429); PB 12-131 CPA (120652).

1 **WHEREAS**, the City Commission finds that the City has not implemented
2 transportation concurrency in portions of the City since 1999 and citywide since 2009 and
3 has utilized its alternative program, the TCEA, to ensure that adequate transportation public
4 facilities exist to serve development; and

5 **WHEREAS**, the City Commission finds that since it has not implemented
6 transportation concurrency throughout the City since 2009, it is appropriate to rescind
7 transportation concurrency and delete the Concurrency Management Element; and

8 **WHEREAS**, the City Commission finds that pursuant to Article VIII, Section 2 of
9 the Florida Constitution and Section 166.021, Florida Statutes, the City has broad home rule
10 authority to adopt ordinances that serve the public interest by making provisions for adequate
11 public facilities to serve the community; and

12 **WHEREAS**, the City Commission finds that it is in the public interest to continue to
13 provide an alternative system that requires developers to contribute to transportation public
14 facilities that will serve new development, provides options and flexibility for developers, is
15 understandable and transparent to developers, and provides ease of implementation by the
16 City in a fair and consistent manner; and

17 **WHEREAS**, the City Commission finds that it would be confusing to continue to
18 refer to such a program by the former state-mandated title of TCEA, or to have an
19 “exception” to transportation concurrency, without continuing to implement transportation
20 concurrency; and

21 **WHEREAS**, the City Commission finds it appropriate for this new alternative system
22 to utilize many of the principals and criteria of the former TCEA that are known, understood,

1 and accepted in the local development community, have worked very well in achieving the
2 multi-modal transportation goals and development patterns desired by the Gainesville
3 community throughout the years, and are reflected in the Comprehensive Plan goals,
4 objectives, and policies; and

5 **WHEREAS**, consistent with studies and local programs that have been created and
6 recognized by other local governments throughout the state, this alternative program will be
7 known and referred to as the “Transportation Mobility Program”; and

8 **WHEREAS**, the City Commission finds it appropriate to adopt, through this
9 ordinance, a Transportation Mobility Program that achieves the goals, objectives, and
10 policies of the City’s Comprehensive Plan and that utilizes the tools and techniques
11 recognized and encouraged by the 2011 Community Planning Act and Florida Chapter Law
12 2013-78; and

13 **WHEREAS**, the City prepared supporting data and analysis as background and
14 justification for the proposed amendments to the City of Gainesville Comprehensive Plan;
15 and

16 **WHEREAS**, the City Plan Board, sitting as the Local Planning Agency (LPA), held
17 multiple public hearings that were each noticed as required by law, where it reviewed the
18 associated petitions and recommended approval of the proposed amendments to the City of
19 Gainesville Comprehensive Plan; and

20 **WHEREAS**, the City Commission held multiple public hearings that were each
21 noticed as required by law, where it reviewed the associated petitions of the proposed
22 amendments to the City of Gainesville Comprehensive Plan and authorized the drafting of

1 this ordinance; and

2 **WHEREAS**, pursuant to law, an advertisement no less than two columns wide by 10
3 inches long was placed in a newspaper of general circulation and provided the public with at
4 least seven (7) days advance notice of the first public hearing (transmittal stage) to be held in
5 the City Hall Auditorium, First Floor, City Hall, City of Gainesville; and

6 **WHEREAS**, pursuant to law, after the public hearing at the transmittal stage, the
7 City transmitted copies of the proposed amendments to the reviewing agencies and any other
8 local government unit or state agency that requested same; and

9 **WHEREAS**, a second advertisement no less than two columns wide by 10 inches
10 long was placed in the aforesaid newspaper and provided the public with at least five (5) days
11 advance notice of the second public hearing (adoption stage); and

12 **WHEREAS**, prior to adoption of this ordinance, the City has reviewed the
13 objections, recommendations, and comments report, if any, submitted by the state land
14 planning agency and any other written comments received concerning the proposed
15 amendments to the City of Gainesville Comprehensive Plan; and

16 **WHEREAS**, the public hearings were held pursuant to the notices described above at
17 which hearings the public had an opportunity to be and was, in fact, heard; and

18 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF**
19 **THE CITY OF GAINESVILLE, FLORIDA:**

20 **Section 1. Incorporation of Recitals.**

21 The above recitals are true and correct and hereby incorporated in this ordinance.

22

1 **Section 2. Proposed Amendments.**

2 The proposed amendments to the following elements of the City of Gainesville’s
3 Comprehensive Plan are attached as composite Exhibit “A” (consisting of Appendices A
4 through H) and are hereby incorporated by reference: Future Land Use Element and Future
5 Land Use Map Series (Appendix A); Transportation Mobility Element and Transportation
6 Mobility Map Series (Appendix B); Concurrency Management Element (Appendix C);
7 Housing Element (Appendix D); Conservation, Open Space & Groundwater Recharge
8 Element (Appendix E); Capital Improvements Element (Appendix F); Intergovernmental
9 Coordination Element (Appendix G); and Public Schools Facilities Element (Appendix H).

10 **Section 3. Intent.**

11 It is the intent of the City Commission that the proposed amendments described in Section 2
12 shall become and be made a part of the City of Gainesville Comprehensive Plan.

13 **Section 4. City Manager Direction to Transmit Amendment Package.**

14 Within 10 working days of the transmittal (first) hearing, the City Manager is authorized and
15 directed to transmit the comprehensive plan amendment package, including this ordinance, to
16 the reviewing agencies and to any other local government unit or state agency that has filed a
17 written request for same with the City. Within 10 working days of the adoption (second)
18 hearing, the City Manager is authorized and directed to transmit the comprehensive plan
19 amendment package, including this ordinance and any supporting data and analysis, to the
20 state land planning agency and to any other reviewing agency, local government unit or state
21 agency that filed written comments with the City.

22

1 **Section 5. City Manager Direction to Implement Ordinance.**

2 The City Manager is authorized and directed to make the necessary changes to the City of
3 Gainesville Comprehensive Plan in order to fully implement this ordinance. The City
4 Manager is authorized to correct any typographical errors that do not affect the intent of this
5 ordinance.

6 **Section 6. Repealing Clause.**

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

9 **Section 7. Severability.**

10 If any word, phrase, clause, paragraph, section or provision of this ordinance or the
11 application hereof to any person or circumstance is held invalid or unconstitutional, such
12 finding shall not affect the other provisions or applications of this ordinance that can be given
13 effect without the invalid or unconstitutional provision or application, and to this end the
14 provisions of this ordinance are declared severable.


15 **Section 8. Effective Date.**

16 This ordinance shall become effective immediately upon adoption; however, these plan
17 amendments, if not timely challenged, shall go into effect pursuant to the state land planning
18 agency's Notice of Intent (NOI) that these plan amendments are in compliance with Chapter
19 163, Florida Statutes. If timely challenged, these plan amendments shall become effective on
20 the date the state land planning agency or the Administration Commission enters a final order
21 determining these adopted plan amendments to be in compliance with Chapter 163, Florida
22 Statutes. No development orders, development permits, or land uses dependent on these plan

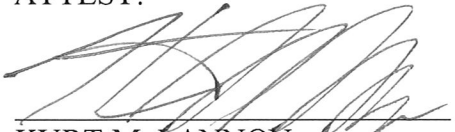
1 amendments may be issued or commenced before these plan amendments have become
2 effective.

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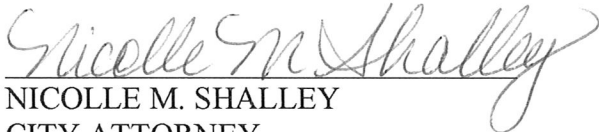
PASSED AND ADOPTED this 15th day of August, 2013.


EDWARD B. BRADDY
MAYOR

ATTEST:


KURT M. LANNON
CLERK OF THE COMMISSION

APPROVED AS TO FORM AND LEGALITY:


NICOLLE M. SHALLEY
CITY ATTORNEY

This ordinance passed on first reading this 18th day of April, 2013.

This ordinance passed on second reading this 15th day of August, 2013.