



MEMORANDUM

Office of the City Attorney

LEGISLATIVE ITEM NO. 002026

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

TO: Mayor and City Commission

DATE: May 13, 2002

FROM: City Attorney

CITY ATTORNEY
ADOPTION READING

SUBJECT: Ordinance No. 0-01-74, Petition 116LUC-01PB
An ordinance amending the City of Gainesville 1991-2001 Comprehensive Plan and the pending City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Map; by changing the land use category of certain property from "Single Family (up to 8 units per acre)" to "Recreation"; located in the vicinity of 1303 Northeast 23rd Avenue; providing a severability clause; providing a repealing clause; and providing an effective date.

Recommendation: The City Commission: 1) approve Petition 116LUC-01PB; and 2) adopt the proposed ordinance.

STAFF REPORT

The petition proposes a small scale amendment to the future land use map of the City of Gainesville Comprehensive Plan from SF (Single-Family 0-8 du/ac) to Recreation. The proposed site is 2.25 acres located at 1303 Northeast 23rd Avenue. The subject property is currently developed as a recreation facility and has been operating as a non-conforming use. The proposed land use amendment and subsequent rezoning would allow the property to become a conforming use, and allow redevelopment of the existing recreation facility.

The subject property is surrounded by property designated and developed as single-family residential neighborhoods. The subject property is not located in the flood control district, the gateway district or the nature park overlay district. The property is located in the tertiary zone of the Wellfield Protection Overlay District. In order to alleviate the non-conforming status of the property, a Wellfield Special Use Permit must be obtained when the development plan is amended. The YMCA is not exempt from the Wellfield requirements because 500 gallons of liquid chlorine is stored on site for the swimming pool.

The recreation land use category identifies appropriate areas for public and private leisure activities. The existing facilities, which include a recreation building, swimming pool and outdoor play area have been located in this residential neighborhood for many years. The only access to the facility is from Northeast 23rd Avenue, an arterial roadway. Parking is located along the Northeast 23rd Avenue frontage.

ORDINANCE NO. _____
0-01-74

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4 **An ordinance amending the City of Gainesville 1991-2001**
5 **Comprehensive Plan and the pending City of Gainesville 2000-**
6 **2010 Comprehensive Plan, Future Land Use Map; by changing**
7 **the land use category of certain property from “Single Family**
8 **(up to 8 units per acre)” to “Recreation”; located in the vicinity**
9 **of 1303 Northeast 23rd Avenue; 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 properties from “Single Family (up
15 to 8 units per acre) to “Recreation”; and

16 **WHEREAS,** notice was given and publication made as required by law and a public
17 hearing was held by the City Plan Board on November 15, 2001; and

18 **WHEREAS,** the amendment to the land use category of the City of Gainesville 1991-2001
19 Comprehensive Plan and the pending City of Gainesville 2000-2010 Comprehensive Plan proposed
20 herein directly relates to a small scale development activity as provided in Chapter 163, Florida
21 Statutes; the City of Gainesville will transmit copies of the public notice and this proposed change
22 to the State Land Planning Agency, the regional planning council, and any other person or entity
23 who has requested a copy for their comments subsequent to the passage of this ordinance; and

24 **WHEREAS,** at least ten (10) days notice has been given of a public hearing once by
25 publication in a newspaper of general circulation notifying the public of this proposed ordinance

D R A F T

04/25/02

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 1991-2001 Comprehensive Plan and the pending City of
8 Gainesville 2000-2010 Comprehensive Plan shall become effective thirty one (31) days after
9 passage and adoption of this Ordinance unless a petition is filed with the Division of Administrative
10 Hearings pursuant to § 163.3187(3), F.S. In this event this Ordinance shall not become effective
11 until the state land planning agency issues a final order determining the adopted amendment to be in
12 compliance in accordance with S. 163.3187, or until the Administration Commission issues a final
13 order determining the adopted amendment to be in

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Petitions 116LUC-01 PB and 117ZON-01 PB

Legal Description

DESCRIPTION: (PER O.R.B. 2191, PAGE 1372)

A TRACT OF LAND SITUATED IN THE THIRD ADDITION TO CAROL ESTATES, A SUBDIVISION, AS RECORDED IN PLAT BOOK E, PAGE 99 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA; SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
ALL OF LOTS 8, 9, 10, 11, 12, 13, 14 AND 31; ALSO THAT PART OF LOTS 29 AND 30 LYING NORTH OF AN EASTERLY PROJECTION OF THE SOUTH LINE OF LOT 31.

EXHIBIT "A"

CITY
OF
GAINESVILLE

INTER-OFFICE COMMUNICATION

Item No.: 4

TO: City Plan Board

DATE: November 15, 2001

FROM: Planning Division Staff

SUBJECT: Petition 116LUC-01 PB, Causseaux & Ellington, Inc., agent for North Central Florida YMCA, Inc. Amend the City of Gainesville Future Land Use Map from SF (Single-Family, up to 8 units per acre) to REC (Recreation) on property located at 1303 NE 23rd Avenue. Related to Petition 117PSZ-01PB.

Recommendation

Staff recommends approval of Petition 116LUC-01 PB.

Explanation

The petition proposes amending the future land use map of the City of Gainesville Comprehensive Plan from SF (Single-Family 0-8 du/ac) to Recreation. The proposed site is 2.25 acres located at 1303 Northeast 23rd Avenue. The subject property is currently developed as a recreation facility and has been operating as a non-conforming use. The proposed land use amendment and subsequent rezoning would allow the property to become a conforming use, and allow redevelopment of the existing recreation facility.

The subject parcel is located at 1303 Northeast 23rd Avenue. Surrounding property is designated and developed as single-family residential neighborhoods. The subject property is not located in the flood control district, the gateway district or the nature park overlay district.

The subject parcel lies in the tertiary zone of the Wellfield Protection Overlay District. In order to alleviate the non-conforming status of the property, a Wellfield Special Use Permit must be obtained when the development plan is amended. The YMCA is not exempt from the Wellfield requirements because 500 gallons of liquid chlorine is stored on site for the swimming pool.

The subject property extends on both sides of the right-of-way of Northeast 22nd Avenue and Northeast 13th Terrace. This portion of these two roads is not constructed. Portions of the right-of-way are currently mowed and used as outdoor play area. The petitioners are not proposing any improvements which would encroach into the right-of-way. There is no access from these residential streets.

Existing Zoning

RSF-2

Purpose of Request

Amend the land use category so that the property could attain a conforming land use, and therefore allow redevelopment and expansion of the existing facilities.

Location

1303 Northeast 23rd Avenue, Tax Parcel 10624-8

Size

2.25 acres

Existing Use

McGurn Family YMCA

Surrounding Conditions

	<u>Land Use</u>	<u>Zoning</u>	<u>Existing Use</u>
East	Single family	RSF-2	SF residential
North	Single family	RSF-2	SF and vacant
South	Single Family	RSF-2	SF residential
West	Single Family	RSF-2	SF residential

Impact on Affordable Housing

This petition will not have a direct impact on the provision of affordable housing.

Respectfully submitted,



Ralph Hilliard
Planning Manager

RH:CRM

Petitions 116LUC-01 PB and 117ZON-01 PB

Legal Description

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A TRACT OF LAND SITUATED IN THE THIRD ADDITION TO CAROL ESTATES, A SUBDIVISION, AS RECORDED IN PLAT BOOK E, PAGE 99 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA; SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
ALL OF LOTS 8, 9, 10, 11, 12, 13, 14 AND 31; ALSO THAT PART OF LOTS 29 AND 30 LYING NORTH OF AN EASTERLY PROJECTION OF THE SOUTH LINE OF LOT 31.

4. **Petition 116LUC-01 PB** Causseaux & Ellington, agent for North Central Florida YMCA, Inc. Amend the City of Gainesville Future Land Use Map from SF (Single-family, up to 8 units per acre) to REC (Recreation) on property located at 1303 NE 23rd Avenue. Related to Petition 117PSZ-01 PB.

5. **Petition 117PSZ-01 PB** Causseaux & Ellington, Inc., agent for North Central Florida YMCA, Inc. Rezone property from RSF-2 (4.6 units/acre single-family residential district) to PS (Public services and operations district) on property located at 1303 NE 23rd Avenue. Related to 116LUC-01 PB and associated minor development plan, 118SPA-01 CD.

Ms. Carolyn Morgan was recognized. *Ms. Morgan indicated that she would present Petition 116LUC-01 PB and Petition 117PSZ-01 PB simultaneously.* She presented a map of the site and described it and the surrounding uses in detail. She noted that the petitions did not include unopened sections of NE 22nd Avenue and NE 13th Terrace because the roads had not been closed and vacated. She pointed out that the petitioner's property actually extended across that road right-of-way. Ms. Morgan explained that the property was currently developed as a recreational property and had been operating as a non-conforming use for at least the last twenty years. She noted that the proposed land use and zoning change would allow the YMCA to become a conforming use and, therefore, the petitioners would be allowed to develop the property. She indicated that the YMCA wished to expand their outside facilities and include a basketball court and stormwater facilities on the site. Ms. Morgan noted that the YMCA does lie in the tertiary zone of the well field district and would also be required to obtain a Well Field Special Use Permit because of the 500-gallon chlorine TANK on the site. She indicated that the petitioners did have a neighborhood meeting and one person attended. She noted that she also checked with the Code Enforcement Division and there were no outstanding complaints or a history of complaints on the property. Ms. Morgan indicated that staff recommended approval of Petition 116LUC-01 PB & 117PSZ-01 PB. She presented photographs of the site. She explained that, with Public Service Zoning, there were specific findings that the board was required to make. She noted that those findings were listed in the staff recommendations. At the request of the Chair, she reviewed those findings and recommendations. She offered to answer any questions from the board.

Mr. Pearce asked if the board would be approving a minor development plan.

Ms. Morgan indicated that the board would not be approving a minor development plan and the petition would have to return to the board for a Well Field Special Use Permit. She noted, however, that the public service district did require that there be a concept plan, and the minor plan before the board needed to be recognized as the proposed layout concept.

Mr. Pearce noted that the proposed location of the new basketball court abutted the undeveloped right-of-way. He asked if the plan would be approved if the right-of-way was developed.

Ms. Morgan agreed that the court did abut the right-of-way. She discussed the time line of the land use and zoning change, and noted that there would be time to initiate a petition to close the right-of-way, should the petitioner wish to do so. She explained that, if the board chose to do so, they could place a condition that the closing the right-of-way be closed, and if it could not, the basketball court could shift back ten feet which would allow for a sidewalk and proper street edge. She pointed out that the whole right-of-way was more than the actual pavement and the proposed basketball court was behind the right-of-way line.

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. Rory Causseaux, agent for the petitioner, was recognized. Mr. Causseaux discussed the history of the YMCA property and noted that it had been in place for over 40 years. He explained that no improvements could be made to the property because of its non-conforming use status, therefore, the petitioner was requesting a change in zoning and land use to provide the basketball court. Mr. Causseaux explained that the site plan shown includes all existing facilities and the proposed new basketball court and stormwater. He described the basketball court location, hours of operation, lighting and landscaping. Regarding the right-of-way, he noted that many of the lots in the area were vacant and had been so for a number of years. He pointed out that the area of the right-of-way contained land that might be considered a wetland since it collected water at times. Mr. Causseaux offered to answer any questions from the board.

Mr. Pearce asked the uses of the property to the south of the right-of-way.

Mr. Causseaux indicated that most of the area was wooded and undeveloped, but there were a few houses, which he pointed out on the map.

Chair Polshek asked about the southeast corner of the property below the right-of-way.

Mr. Causseaux stated that it was wooded and there were no plans to use the area. He agreed that it was possible to consider a street vacation of the right-of-way. He indicated that he had some concern about shifting the basketball court away from the right-of-way since it had not been developed in the last 40 years.

Chair Polshek suggested that staff review the matter of the street vacation. He asked if there was a bus stop by the facility, and if so, would the petitioner consider providing a bus shelter.

Ms. Morgan pointed out that there were no TCEA Standards for the project to meet; therefore, no bus shelter was required. She noted that there was enough right-of-way along NW 23rd Avenue for the City to install a bus shelter, if they wished.

Chair Polshek asked what other possible uses could occur in the proposed zoning and land use should the YMCA sell the property.

Ms. Morgan reviewed the possible uses but noted that any change in use would require an associated site plan.

Chair Polshek opened the floor to public comment.

Ms. Nicole Beaner, property owner adjacent to the site, was recognized. Ms. Beaner cited concerns about noise, hours of operation of the basketball court and an increase in traffic.

Ms. Jennifer Cominghill, resident near the site, was recognized. Ms. Croninghill cited a concern about the lighting and the hours of operation.

Chair Polshek closed the floor to public comment.

Mr. Pearce asked if future development on site would require review of a new site plan. He noted there was a note on the plan that stated that the southwest corner of the property was to be improved for playground use. He asked if trees were to be removed.

Mr. Causseaux explained that the only the action would be clearing of overgrowth of vines and leveling of the play area. He indicated that there would be no playground equipment. He pointed out undisturbed buffers and fences already in place.

Mr. Pearce asked if the stated hours of operation were a part of the petition. He suggested that nine p.m. was a bit late.

Ms. Morgan indicated that the lighting and hours of operation, were a part of the petition.

Mr. Pearce indicated that he did not believe lighting would be a problem so long as it conformed to the lighting ordinance, but the hours of operation and noise were a concern.

Ms. Morgan agreed that the area would be brighter, even if there were no direct glare.

Mr. Causseaux discussed the lighting and hours of operation noting that the hours of light were considerably longer in the summer time. He indicated a need for a year round schedule.

Chair Polshek noted that there were noise and light ordinances to cover concerns and since the YMCA was a community service organization, they would be happy to work with the community to alleviate concerns. He indicated that he had no problem with the hours of operation.

Mr. Pearce suggested that he would be more comfortable if the hours of operation of the basketball court were limited to no later than eight p.m.

Chair Polshek indicated that he believed nine p.m. would not be unreasonable.

Ms. Barbara Haley, agent for the YMCA, was recognized. Ms. Haley indicated that she would work with the neighbors on problems from the hours of operation of the basketball court.

Mr. Pearce made a motion to Approve Petition 116LUC-01 PB as presented, and approve Petition 117PSZ-01 PB, modifying the weeklong operational hours to be until 8:00 PM Monday through Saturday, and 6:00 PM on Sunday and the location and nature of the fence at site plan review.

Ms. Myers seconded the motion.

Chair Polshek disagreed with the proposed conditions on the hours of operation. He noted that the petitioners had stated their willingness to work with all the neighbors.

Ms. Myers indicated that she agreed with the Chair.

Mr. Pearce indicated that he believed that the neighbors should be protected from noise after certain hours.

Ms. Myers withdrew her second of the motion.

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. Pearce's motion died for lack of a second.

There was discussion and Mr. Pearce withdrew the motion.

Mr. Calderon reminded the board that the changes made went along with the property, not just the YMCA. He requested that, if the board made conditions on lighting or noise, it be specified that they were for the petition before the board. He pointed out that, if the YMCA left the property, another business occupying the site might be able to use the conditions to the disadvantage of the neighbors.

Ms. Morgan suggested that the board should recommend that the lighting and hours be specifically for a basketball court and not some other use of a paved area. She noted that the petitioner's submissions state that the use was to be a basketball court and the hours would not extend beyond nine PM.

There was discussion of the possibility of requiring two sets of hours, one for winter and one for summer.

Chair Polshek passed the gavel to Vice-Chair Guy and made the motions for the petitions.

<u>Motion By:</u> Mr. Polshek	<u>Seconded By:</u> Ms. Myers
<u>Moved to:</u> Approve Petition 116LUC-01 PB as presented by staff.	<u>Upon Vote:</u> Motion Carried 4 - 0 Ayes: Guy, Polshek, Pearce, Myers

<u>Motion By:</u> Mr. Polshek	<u>Seconded By:</u> Ms. Myers
<u>Moved to:</u> Approve Petition 117PSZ-01 PB, as presented by staff and the conditions that the hours of operation stated in the petition be associated only with the operation of a basketball court operated by the YMCA, and that the YMCA will abide by the existing or future ordinances on noise and lighting.	<u>Upon Vote:</u> Motion Carried 3 - 1 Ayes: Guy, Polshek, Myers Nays: Pearce