



MEMORANDUM

Office of the City Attorney

LEGISLATIVE ITEM NO. 000770

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

TO: Mayor and City Commission

DATE: February 12, 2001

FROM: City Attorney

**CITY ATTORNEY
FIRST READING**

SUBJECT: Ordinance No. 0-01-03, Petition No. 176ZON-00PB
An ordinance of the City of Gainesville, Florida, amending the Zoning Map Atlas and rezoning certain lands within the City from "RSF-1: 3.5 units/acre single-family residential district" to "MD: Medical services district"; located in the vicinity of 6400 block of Northwest 9th Boulevard; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Recommendation: The City Commission: 1) approve Petition No. 176ZON-00PB; and 2) adopt the proposed ordinance.

STAFF REPORT

This is a request to bring the zoning into compliance with the Office land use recently adopted by the City Commission (Petition 105LUC-00PB) for the subject property. The subject property is approximately 29 acres in size and is located in the 6400 block of Northwest 9th Boulevard. The property is currently undeveloped, and can best be described as an open field with a wooded buffer and walking path along the north, east and west border. Of the 29 acres, 17 acres are now encumbered by a recorded private conservation easement along the west, north and east edges of the property. The easement is part of a private agreement between the neighborhood and the hospital. The easement provides additional buffering and a transition area between the existing single-family to the north and east and the hospital and medical office uses to the south. The width of the conservation easement varies from approximately 120 feet to 400 feet at its widest. The easement is not enforceable by the City.

The request of this petition is to change the zoning from RSF-1 to MD (Medical Services district) to facilitate the development medical office use on the site. The MD district is established to provide adequate space in appropriate locations suitable for accommodating the health and related medical needs of the community. The objectives of the district include encouraging development to locate in close proximity to the community's major transportation arteries so as to provide maximum accessibility for emergency vehicles and the general public. The subject property is located within ¼ mile of State Road 26, a major transportation artery, and is part of the North Florida Regional Medical Center complex. Staff and the Plan Board find that the purpose and objectives of the MD zoning district, as stated above, are suitable for the subject property and compatible with surrounding uses.

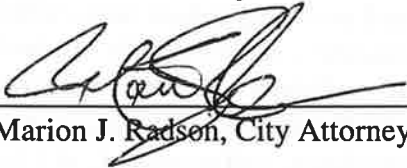
The Plan Board after reviewing the petition and hearing the concerns on the neighbors recommended approval of the zoning change.

Public notice was published in the Gainesville Sun on December 1, 2000. Letters were mailed to surrounding property owners on December 4, 2000. The Plan Board held a public hearing December 19, 2000. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board recommended that the City Commission approve Petition 176ZON-00 PB. Plan Board vote 4-1.

CITY ATTORNEY MEMORANDUM

If the ordinance is adopted on first reading, second reading will be held on February 26, 2001.

Prepared and Submitted by:



Marion J. Radson, City Attorney

MJR/afm

Attachment

D R A F T

01/09/01

ORDINANCE NO. _____
0-01-03

1
2
3
4 **An ordinance of the City of Gainesville, Florida, amending the Zoning**
5 **Map Atlas and rezoning certain lands within the City from “RSF-1:**
6 **3.5 units/acre single-family residential district” to “MD: Medical**
7 **services district”;** located in the vicinity of 6400 block of Northwest 9th
8 **Boulevard; providing a severability clause; providing a repealing**
9 **clause; and providing an immediate effective date.**

10
11
12 **WHEREAS,** the City Plan Board authorized the publication of notice of a public hearing
13 that certain lands within the City be rezoned from the zoning category of “RSF-1: 3.5 units/acre
14 single-family residential district” to “MD: Medical services district”; and

15 **WHEREAS,** notice was given and publication made as required by law and a Public
16 Hearing was held by the City Plan Board on December 19, 2000; and

17 **WHEREAS,** the City Commission finds that the rezoning of the property described
18 herein will be consistent with the City of Gainesville 1991-2001 Comprehensive Plan upon the
19 adoption of City of Gainesville Ordinance No. 000153.

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

24 **WHEREAS,** notice has also been given by mail to the owner whose property will be
25 regulated by the adoption of this Ordinance, prior to the date set for a public hearing on this

D R A F T

01/09/01

1 ordinance; and

2 **WHEREAS**, the Public Hearing was held pursuant to the published and mailed notice
3 described at which hearing the parties in interest and all others had an opportunity to be and
4 were, in fact, heard.

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

7 **Section 1.** The following described property is rezoned and changed from the zoning
8 category of "RSF-1: 3.5 units/acre single-family residential district" to "MD: Medical services
9 district":

10 See Legal Description attached hereto as Exhibit "A", and made a
11 part hereof as if set forth in full.

12 **Section 2.** The City Manager is authorized and directed to make the necessary changes in
13 the Zoning Map to comply with this Ordinance.

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

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

19 **Section 5.** This ordinance shall become effective immediately upon final adoption.

20 **PASSED AND ADOPTED** this ____ day of _____, 2001.

21
22

D R A F T

01/09/01

PAULA M. DeLANEY, MAYOR

ATTEST:

Approved as to form and legality:

By: _____
MARION J. RADSON, CITY ATTORNEY

KURT LANNON,
CLERK OF THE COMMISSION

This ordinance passed on first reading this ____ day of _____, 2001.

This ordinance passed on second reading this ____ day of _____, 2001.

May 10, 2000

Legal Description

A portion of the South ½ of Section 33, Township 9 South, Range 19 East, Alachua County, Florida; being more particularly described as follows:

Commence at the southwest corner of Lot 48 of 'West Hills', a subdivision as per plat thereof recorded in Plat Book "E", page 11 of the Public Records of Alachua County, Florida and run thence North 00°14'09" East, along the west boundary of said 'West Hills', 2064.65 feet to the northwest corner of Lot 24 of said 'West Hills' and the southeast corner of that certain parcel of land as described in Official Records Book 1315, page 726 of the Public Records of Alachua County, Florida; thence North 46°16'55" West, along the south boundary of said parcel (O.R. 1315, pg. 726), a distance of 137.82 feet to the POINT OF BEGINNING; thence continue North 46°16'55" West, along said south boundary, 206.44 feet to a point on the southeasterly line of 'University Acres, Unit No. 1', a subdivision as per plat thereof recorded in Plat Book "F", page 88 of said Public Records; thence South 61°27'02" West, along the southeasterly line of Lots 33 and 32 of said subdivision (Plat Book "F", pg. 88), a distance of 223.52 feet to the southwest corner of said Lot 32; thence South 78°42'08" West, along the south boundary of Lots 31 and 30 of said subdivision (Plat Book "F", pg. 88), a distance of 235.72 feet to the southwest corner of said Lot 30 and the southeast corner of Lot 6 of 'University Acres, Unit No. 2', a subdivision as per plat thereof, recorded in Plat Book "H", page 10 of said Public Records; thence South 85°02'54" West, along the south boundary of said subdivision (Plat Book "H", pg. 10), a distance of 396.54 feet to the southwest corner of Lot 8 of said subdivision (Plat Book "H", pg. 10); thence southwesterly, northwesterly and westerly, along the south boundary of said subdivision (Plat Book "H", pg. 10) through the following 20 courses and distances:

- 1) South 79°29'21" West, 92.58 feet;
- 2) South 57°51'07" West, 151.42 feet;
- 3) South 46°02'06" West, 50.22 feet;
- 4) North 56°28'12" West, 31.39 feet;
- 5) North 84°12'45" West, 43.00 feet;
- 6) North 67°03'18" West, 123.81 feet;
- 7) North 71°34'51" West, 81.32 feet;
- 8) North 57°42'56" West, 58.32 feet;
- 9) North 68°13'49" West, 43.53 feet;
- 10) North 87°15'15" West, 22.07 feet;
- 11) North 51°19'59" West, 28.50 feet;
- 12) North 87°30'36" West, 51.96 feet;
- 13) North 60°40'56" West, 58.47 feet;
- 14) South 66°36'56" West, 19.25 feet;
- 15) North 74°53'36" West, 19.92 feet;
- 16) South 77°24'50" West, 57.27 feet;
- 17) South 87°38'30" West, 70.44 feet;
- 18) South 65°31'23" West, 46.52 feet;
- 19) North 62°28'30" West, 44.25 feet;
- 20) North 88°46'10" West, 269.34 feet to the southwest corner of Lot 25 of said subdivision (Plat Book "H", pg. 10) and to a point on the easterly line of Parcel 23 of an unrecorded survey by Perry C. McGriff Co. dated June 3, 1965; thence South 00°15'50" West, along said easterly line, 501.16 feet to the

EXHIBIT "A"

northwest corner of 'North Florida Regional Doctors Office Park', a subdivision as per plat thereof recorded in Plat Book "H", page 81 of said Public Records; thence South 86°10'10" East, along the northerly line of said subdivision (Plat Book "H", page 81), a distance of 203.15 feet; thence South 77°32'13" East, along said northerly line, 902.18 feet; thence North 62°35'31" East, along said northerly line, 369.89 feet; thence North 85°01'54" East, along said northerly line, 428.70 feet to the northeast corner of said 'North Florida Regional Doctors Office Park'; thence South 00°14'09" West, along the east line of said 'North Florida Regional Doctors Office Park', 130.79 feet; thence South 87°09'14" East, 399.81 feet to a point lying 100.00 feet westerly of the west boundary of said 'West Hills'; thence North 00°14'09" East, 100.00 feet westerly of and parallel with said west boundary (measured perpendicular), 647.73 feet to the POINT OF BEGINNING.

Containing 29.199 acres (1,271,921 square feet), more or less.

C:\WPWIN60\WPDOCS\ROWEMEDPARK\LEGAL.WPD

A handwritten signature in black ink, appearing to be 'Robert A. ...', located in the bottom right corner of the page.

CITY
-----OF-----
GAINESVILLE

INTER-OFFICE COMMUNICATION

Item No. 4

TO: City Plan Board

DATE: December 19, 2000

FROM: Planning Division Staff

SUBJECT: Petition 176 ZON-00 PB, C. David Coffey, Esq. agent for HCA Health Services of Fla., Inc. Rezone property from RSF-1 (3.5 units per acre single-family residential district) to MD (Medical Services district). Located in the 6400 block of Northwest 9th Boulevard. Related to Petition 105 LUC- 00PB.

Recommendation

Staff recommends approval of petition 176 ZON-00PB.

Explanation

This petition will bring the zoning into compliance with the Office land use recently adopted by the City Commission (Petition 105LUC-00PB) for the subject property. The subject property is approximately 29 acres in size and is located in the 6400 block of Northwest 9th Boulevard. The property is currently undeveloped, and can best be described as an open field with a wooded buffer and walking path along the north, east and west border. The property was annexed into the City limits in 1994, and is located to the north of the North Florida Regional Medical Center. The subject property is surrounded by properties located within unincorporated Alachua County on the north, east, west and portions of the south side. The properties immediately to the north, east and west have an Alachua County residential low density land use designation and are developed with single-family residential. Properties immediately to the south have an Alachua County land use designation of commercial and are developed with medical office uses. Northwest 69th Terrace abuts the western portion of the subject property.

The request of this petition is to change the zoning from RSF-1 to MD (Medical Services district) to facilitate the development of 115,000 square feet of medical office use on the site. The MD district is established to provide adequate space in appropriate locations suitable for accommodating the health and related medical needs of the community. The objectives of the district include encouraging development to locate in close proximity to the community's major transportation arteries so as to provide maximum accessibility for emergency vehicles and the general public. The subject property is located within ¼ mile of State Road 26, a major transportation artery, and is part of the North Florida Regional Medical Center complex. The petitioner has stated that the appropriate use of the subject property was the subject of extensive discussion and negotiations with adjacent neighborhoods, resulting in an agreement between the owner and several nearby neighborhood associations, known collectively as WHUAMB (see Attachment A). The terms and conditions of the agreement run with the land and are therefore binding on future

buyers, according to the agreement. The terms include the recording of a conservation easement of approximately 17 acres along the north, east and western perimeters of the property (see Attachment B). The City is not a party to the agreement between the owner and WHUAMB.

Potential Impact on Adopted LOS standards

Potable water, wastewater, and solid waste capacity are all available at adopted level of service standards. Stormwater management concurrency will be addressed at the time of development plan approval. The site is within the Gainesville Regional Transit System main bus service area, with service being provided along State Road 26. The segment of State Road 26 within 1/4 mile of the subject property is operating at level of service "F", indicating that roadway level of service capacity is not available. However, the subject property is located in the City of Gainesville Transportation Concurrency Exception Area "Zone B", and as such is exempt from transportation concurrency, provided that the development of the property meets the applicable mitigation standards and conditions of the Exception Area, to be determined at development plan approval.

Character of the District and Suitability

Staff finds that the purpose and objectives of the MD zoning district, as stated above, are suitable for the subject property and compatible with surrounding uses. The 17 acre area now encumbered by a recorded conservation easement along the west, north and east edges of the property, provides an appropriate buffer and transition between the existing single-family to the north and east and the hospital and medical office uses to the south. The width of the conservation easement varies from approximately 120 feet to 400 feet at its widest.

According to the National Wetlands Inventory, a portion of the northeast corner of the property is a forested wetland dominated by broad-leaved deciduous trees and evergreen shrubs. It appears that this wetland area is located within the conservation easement.

Direct access to the property could be provided through the Physicians Office Park which abuts most of the southern boundary of the property. Indirect access would be from Newberry Road (S.R. 26) or N.W. 69th Terrace. The property is located on the edge of a high intensity activity center, which includes a regional mall (the Oaks Mall) and the North Florida Regional Medical Center hospital and doctor's offices.

Conservation of the Value of Buildings and Encouraging Appropriate Uses

The subject property does not contain any existing buildings. The proposed medical office use is appropriate for the property given its location adjacent to a hospital and existing medical office complex, as well as the existence of a conservation easement to buffer adjacent residential uses.

Applicable Portions of Current City Plans

The subject property is not located within any special area plan boundaries. The development of the property must meet the applicable portions of the City of Gainesville Land Development Code. The proposed zoning is consistent with the

existing Comprehensive Plan Land Use Designation of Office applied to the subject property.

Needs of the City for Land Areas to Serve Purposes, Populations, and Economic Activities

The purpose of the rezoning is to provide the opportunity for the development of medical office uses adjacent to a regional hospital and medical uses. The MD zoning district allows health services and related, compatible uses. Concentrating such uses in close proximity to similar uses will serve the purpose of discouraging unnecessary vehicular trips on congested roadways. Physicians affiliated with the North Florida Regional Medical Center and the community benefit when medical offices are located near the hospital. The proximity could reduce the number of vehicular trips required for the daily visits by physicians to the hospital for daily rounds and offices for outpatient visits. The proximity of the property that is the subject of this application and the hospital is such that walking between facilities is feasible.

Substantial Changes in Character or Development in the Area

The regional medical complex to the south of the property has seen continued development and expansion in recent years to accommodate the medical needs of the region. Residential neighborhoods to the north, east, and west of the subject property have been in existence for many years, are stable, and their character is not expected to change. As infill development continues to be encouraged by the city, this proposal will allow for appropriate development adjacent to existing medical uses. The subject property is within (or adjacent to) the Oaks Mall activity center, a highly intense area dominated by regional retail and medical facilities.

Goals, Objectives and Policies of the Comprehensive Plan

Future Land Use Element

Goal 2

The Land Use Element shall foster the unique character of the City by directing growth and redevelopment in a manner that uses activity centers to provide goods and services to City residents; protects viable, stable neighborhoods; distributes growth and economic activity throughout the City in keeping with the direction of this element; preserves quality open space and preserves the tree canopy of the City. The Land Use Element shall promote statewide goals for compact development and sufficient use of infrastructure.

Objective 2.1

The City shall establish land use designations that allow sufficient acreage for residential, commercial, mixed-use, office, professional uses and industrial uses at appropriate locations to meet the needs of the projected population and which allow flexibility for the City to consider unique, innovative, and carefully construed proposals that are in keeping with the surrounding character and environmental condition of specific sites.

Policy 2.1.1

Land Use Categories on the Future Land Use Map shall be defined as follows:

Office

The office land use category identifies areas appropriate for office and residential uses. This category is intended to identify appropriate areas for professional and service uses, hospital and medical uses, compound and residential uses, and appropriate ancillary uses. Office designations shall be applied to compact office development; office designations shall not encroach in viable residential areas nor expand strip development. Residential uses in office districts shall be designed as infill, mixed use, compound uses or shall accommodate existing residential development within the district. Densities shall not exceed twenty (20) units per acre. Land Development Regulations shall determine the appropriate scale of uses; and the specific criteria for the siting of private schools and churches. Floor area ratios in this district shall not exceed 2.00.

Objective 2.2

By June 1992, the City shall implement regulations that will protect low intensity uses from the negative impacts of high intensity uses and provide for the healthy coexistence and integration of various land uses.

Policy 2.2.4

Prior to the final development order during the Development Review Process, the intensity of use appropriate to any parcel shall be determined based upon the availability of public services and facilities to meet urban needs; the capacity of such facilities and services to serve the proposed land use without degrading LOS standards (as determined through LOS standards); and the compatibility of the proposed land use with that of surrounding existing land uses and environmental conditions specific to the site.

Applicant Information	C. David Coffey, Esq., agent for HCA Health Services of Fla., Inc.
Request	Rezone from RSF-1 to MD
Existing Land Use Plan Classification	Office
Existing Zoning	RSF-1
Location	6400 N.W. 9th Blvd.
Existing Use	Undeveloped
Surrounding Land Uses	
North	residential
South	office

East
West

residential
residential

Surrounding Controls

Existing Zoning

Land Use Plan

Note: Alachua County Zoning and Land Use designations apply, unless otherwise noted:

North
South

R-1a and RE-1

Residential low density

AP

Commercial

City of Gainesville

O

PUD

East
West

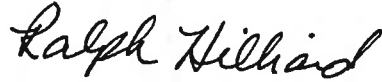
R-1a

Residential low density

RE-1

Residential low density

Respectfully submitted,



Ralph Hilliard
Planning Manager

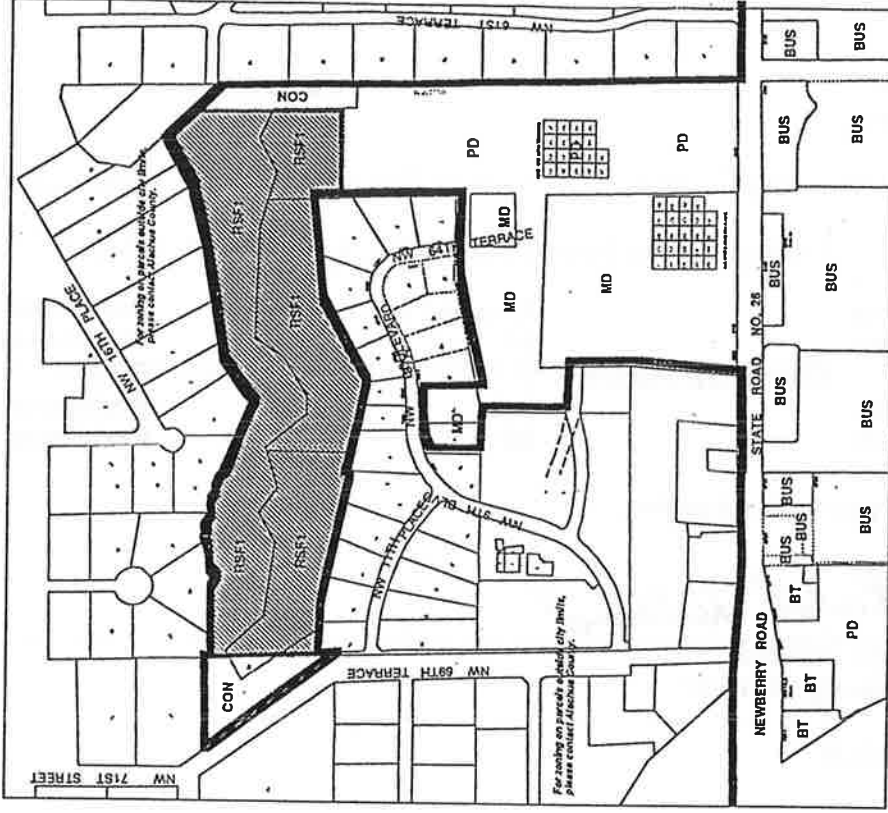
RH:KW

Zoning Districts

- RSF1 Single-family Residential (3.5 du/acre)
- RSF2 Single-family Residential (4.6 du/acre)
- RSF3 Single-family Residential (5.8 du/acre)
- RSF4 Single-family Residential (8 du/acre)
- RMF5 Single-family/Multiple-family Residential (12 du/acre)
- RMF6 Multiple-family Residential (8-15 du/acre)
- RMF7 Multiple-family Residential (8-21 du/acre)
- RMF8 Multiple-family Residential (8-30 du/acre)
- RC Residential Conservation (12 du/acre)
- MH Mobile Home Residential (12 du/acre)
- RMU Residential Mixed Use (up to 75 du/acre)
- RH1 Residential High Density (8-43 du/acre)
- RH2 Residential High Density (8-100 du/acre)
- OR Office Residential (20 du/acre)
- OF General Office
- BA General Business
- BT Automotive-oriented Business
- MU1 Tourist-oriented Business
- MU2 Mixed Use Low Intensity (10-30 du/acre)
- CCD Mixed Use Medium Intensity (14-30 du/acre)
- W Central City District (up to 150 du/acre)
- I1 Warehousing and Wholesaling
- I2 Limited Industrial
- AGR General Industrial
- CON Agriculture
- MD Conservation
- PS Medical Services
- AF Public Services and Operations
- ED Airport Facility
- CP Educational Services
- PD Corporate Park
- Planned Development

- x— Historic Preservation/Conservation
- o— Special Area Plan
- - - - - Division line between two zoning districts
- ▬ City Limits

Area under petition consideration



ZONING

Name	Petition Request	Map(s)	Petition Number
C. David Coffey, Esq. for: HCA Health Services of Fla., Inc.	From RSF1 to MD	3840 3841	176ZON-00PB



No Scale

AGREEMENT

BETWEEN
HCA HEALTH SERVICES OF FLORIDA, INC.
AND
WHUAMB

Agreement made December 7, 1997, between the HCA Health Services of Florida, Inc., d/b/a Columbia North Florida Regional Medical Center, P.O. Box. NFR, Gainesville, Florida 32614-7006, hereinafter referred to as NFRMC, and the neighborhood association of WHUAMB, Gainesville, Florida 32605, hereinafter referred to as WHUAMB.

Recitals

WHEREAS the parties to this Agreement own property which share common boundaries; and

WHEREAS NFRMC owns tax parcels 6337-23, 6340-22, 6340 and 6340-4 which are the subject of this Agreement (as indicated in the map attached as Exhibit A); and

WHEREAS WHUAMB represents residential homeowners in the neighborhoods of West Hills, University Acres, Meadowbrook and Blakemeade; and

WHEREAS the neighborhoods represented by WHUAMB are located to the west, north and east of the tax parcels owned by NFRMC; and

WHEREAS the parties desire that each be able to make reasonable use of their properties without causing harm to the other; and

WHEREAS the parties have for several years, engaged in good faith negotiations to determine what would constitute reasonable use of said properties; and

WHEREAS the parties have reached agreement on what constitutes reasonable use of said properties; and

NOW, THEREFORE, in consideration of the mutual covenants expressed in this Agreement, the parties agree as follows:

1. All residential lots abutting the NFRMC owned tax parcels, shall remain in single-family use so long as this Agreement remains in effect.

2. The use and development of the southern most 17.39 acres of tax parcel 6340-4 shall be governed and controlled by Alachua County Resolution No. Z-92-29 ("the Resolution") as amended by City of Gainesville Ordinance No. 950702 ("the Ordinance"), copies of which are attached hereto as Exhibits B & C respectively, and as may be amended in the future by Ordinance of the City of Gainesville.
3. The use and development of tax parcel 6337-23 shall be limited to uses permitted by the City of Gainesville Conservation zoning district (list of permitted uses attached as Exhibit E) and no vehicular access shall be allowed through said parcel to connect to N.W. 69th Terrace from said tax parcel, and, a minimum one hundred (100') foot natural buffer shall be maintained on the western and northern most boundaries of said tax parcel.
4. The use and development of the approximately thirty-three (33) acres consisting of tax parcels 6337-23, 6340-22, 6340 and the northern portion of tax parcel 6340-4 not governed by the Resolution and the Ordinance, shall be limited to uses allowed under the current zoning and such uses that may be authorized in a future land use and zoning amendment to be approved by the City of Gainesville following application by NFRMC at some future date. The land use amendment and rezoning to be requested by NFRMC shall be for a Planned Use District land use designation, and a Planned Development implementing zoning designation, or equivalent land use and zoning designations, and shall only allow medical office and/or clinic uses with a maximum of one hundred fifteen thousand (115,000) gross square feet, with said use further limited by the following special requirements:
 - a. A natural buffer as indicated on the map attached as Exhibit D will be maintained along the entire northern, eastern and western boundaries which shall be encumbered by the conservation easement required by paragraph 8 of this Agreement.
 - b. If the development plan for the area includes an internal access road with a southern boundary that is more than one hundred feet (100') north of the south property line for tax parcels 6340-22 and 6340, development of any building north of such access road shall be limited in height to one (1) story or twenty (20) feet, whichever is greater.
 - c. If the development plan includes an internal access road with a southern boundary that is less than one hundred feet (100') north of the south property line for tax parcels 6340-22 and 6340, then development of any building or structure shall be limited in height to two (2) stories or thirty-five (35) feet, whichever is greater.
 - d. If developed with the medical office and/or clinic uses, there shall be no minimum lot sizes required for the development.

- e. A master drainage plan acceptable to the City of Gainesville shall be submitted in conjunction with the submission of the initial site development plan. Stormwater retention areas shall be located so as to harm as few existing hardwood trees as possible. No stormwater shall leave the subject property and enter the natural buffer area or other surrounding uses at a volume and a rate that exceeds the existing pre-development volume and rate. Conservation and buffer areas shall not be used for surfacewater management purposes, except to the extent possible without removal of existing vegetation. All stormwater shall be retained based upon a one hundred (100) year storm event and treated to meet current Water Management District and City of Gainesville requirements prior to discharge into any sink holes and wetlands.
 - f. Vehicular access to the property shall not be made through any extension of N.W. 13th Place.
 - g. The medical office and/or clinic use shall be for "out patient" care (i.e., less than 24 hour on-site care) and shall not include "in patient care" (i.e., 24 hours or greater on-site care).
 - h. If developed for residential use, said residential development shall not exceed one residential unit per acre.
 - i. Directional lighting shall be employed throughout the development to minimize potential of light being directed toward the adjacent neighborhoods.
5. NFRMC agrees to consult with WHUAMB prior to initiation by NFRMC of any land use or zoning change with the City of Gainesville on any of the parcels covered by this Agreement for the purpose of obtaining recommendations from WHUAMB, and to provide assurance to WHUAMB that such change is consistent with, and in furtherance of, this Agreement.
 6. NFRMC agrees that it will not support any plan by the City, County or State of Florida to extend S.W. 62nd Street north of Newberry Road.
 7. WHUAMB agrees to actively support a land use and zoning change request to the City of Gainesville by NFRMC for tax parcels 6337-23, 6340-22, 6340 and the northern portion of tax parcel 6340-4 not governed by the Resolution and the Ordinance, provided said land use and zoning change is consistent with all the terms and conditions of this Agreement. Said support shall take the form of official notice of support by WHUAMB to the applicable governmental entity.
 8. NFRMC shall create a conservation easement for the area indicated in Exhibit D, attached, for the purpose of retaining the buffer areas predominantly in their natural condition and said easement shall be granted to WHUAMB and shall record same in the

public records of Alachua County, and said easement shall run with the land prohibiting the following:

- a. Construction or placing of roads, parking lots or buildings;
- b. Dumping or placing soil or other substance or material as landfill; and
- c. Removal or destruction of trees, shrubs, or other vegetation, unless required for safety reasons or for removal of harmful exotic plant species; and
- d. Any and all excavation or removal of material substance that may effect the surface (surface use shall remain predominantly in its natural condition), provided, however, that additional landscaping with native plant species to maintain and improve the buffer shall be permitted and a running path shall be permitted; and
- e. Activities detrimental to drainage, flood control, water conservation or habitat preservation.

The conservation easement shall specifically allow the following:

- a. Areas within the easement may be used for surfacewater management purposes to the extent possible without removal of existing vegetation.
 - b. A running path may be maintained within the conservation easement for the purpose of providing a pedestrian walking and jogging trail. The running path right-of-way shall be owned and maintained by NFRMC.
 - c. Utilities may be placed underground within the westernmost portion of the easement area within the area identified as tax parcel 6337-23 in Exhibit A. Removal of vegetation shall be the minimum necessary to provide required utility access.
9. NFRMC agrees to make declarations and covenants incorporating the terms of this Agreement and record same on the public records of Alachua County, Florida so that the terms and conditions of this Agreement shall run with the land and be binding on any future owners of said land.
 10. This Agreement constitutes the entire understanding between the parties relating to the subject matter herein, and supersedes other written or verbal agreements between the parties.

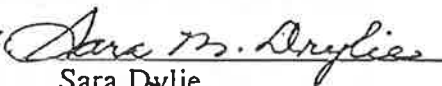
11. This Agreement may be amended or supplemented only by written agreement signed by the parties and recording of said amendment upon the public records of Alachua County, Florida.
12. If any provision of this Agreement is found to be invalid by a legal authority with jurisdiction or by stipulation of the parties, the parties will modify that provision, if possible, to conform to the intent of the parties as reflected in the original provision. In the event any portion of this Agreement is invalid, the remainder of this Agreement will remain valid and enforceable.
13. Failure of either party to enforce any provision of this Agreement does not waive that party's right to full performance of the remainder of the Agreement.
14. In the event the parties cannot resolve any disputes or claims arising with respect to this Agreement, the dispute or claim will be settled by arbitration. The arbitration proceedings shall be conducted under the Commercial Arbitration Rules of the American Arbitration Association in effect at the time a demand for arbitration under the Rules is made. The decision of the arbitrator shall be binding and enforceable in a court of law. Arbitration shall take place in Gainesville, Florida, unless otherwise agreed by the parties in writing. The costs associated with the arbitration process shall be borne equally by the parties.
15. The substantially prevailing party, in any litigation that may occur between the parties, shall be entitled to recover all of its expenses and costs reasonably incurred in pursuit of their rights under this Agreement, which expenses and costs shall include reasonable attorneys fees, whether suit be brought or not, and which shall include any expenses and costs on appeal.
16. The rights, obligations, and remedies of the parties under this Agreement will be interpreted and governed by the laws of the State of Florida and its appropriate governmental bodies.
17. The parties voluntarily submit to the jurisdiction of the courts of the State of Florida. Venue shall be in Alachua County, Florida.
18. The parties execute this Agreement, causing it to become effective on the latest date below, with the signatures of their respective authorized representatives.

HCA Health Services of Florida, Inc.
d/b/a/ Columbia North Florida Regional Medical Center
P.O. Box NFR
Gainesville, Florida 32614-7006

WHUAMB, INC.
C/O Sara Drylie, President
6603 N.W. 18th Ave.
Gainesville, FL 32605

BY:  ^{fm2}

Brian C. Robinson
President & Chief Executive Officer

BY: 

Sara Drylie
President

Date: 11-7-97

Date: 12-1-97

PERPETUAL CONSERVATION EASEMENT

THIS AGREEMENT made and entered into this 23rd day of December, 1997, by and between HCA HEALTH SERVICES OF FLORIDA, INC., d/b/a Columbia North Florida Regional Medical Center, P.O. Box NFR, Gainesville, Florida 32614-7006 (hereinafter referred to as the Grantor) and WHUAMB, a neighborhood association, Gainesville, Florida 32605 (hereinafter referred to as the Grantee).

WITNESSETH

WHEREAS, Grantor is the owner of certain lands described in Schedule A attached hereto, hereinafter referred to as Property; and

WHEREAS, the parties recognize the Property's natural scenic, recreational, educational, buffering and other environmental values, and with both parties having a common purpose of conserving the natural values, character, and current beneficial use of the Property, Grantor agrees to convey to Grantee a Perpetual Conservation Easement on, over and across the Property which easement conserves the value, character and beneficial use of the Property.

NOW THEREFORE, the Grantor, for and in consideration of the sum of \$10.00 and other valuable consideration, the adequacy, sufficiency and receipt of which are hereby acknowledged by the Grantor, does hereby grant, bargain, sell and convey to Grantee and its successors and assigns forever a Conservation Easement in perpetuity over the Property pursuant to Section 704.06, Fla. Stat. (1997), said Statute except as modified herein, and further agree as follows:

- I. Grantor shall have the exclusive use of the Property, except as herein limited, and agrees that, as to the Property, it shall not:
 - A. Construct or place roads, parking lots or buildings.
 - B. Dump or place soil or other substances or materials as landfill.
 - C. Remove or destroy trees, shrubs or other vegetation, unless required for safety reasons or for removal of harmful exotic plant species.
 - D. Excavate or remove any material substance that may effect the surface (surface use shall remain predominantly in its natural condition), provided, however, that additional landscaping with native plant species to maintain and improve the buffer shall be permitted and a running path shall be permitted.

- E. Undertake or permit activities detrimental to drainage, flood control, water conservation, or habitat preservation.
2. Anything herein to the contrary notwithstanding, the Grantor may conduct the following activities under this Conservation Easement:
 - A. Areas within the Property may be used for surfacewater management purposes to the extent possible without removal of existing vegetation.
 - B. A running path may be maintained within the Property for the purpose of providing a pedestrian walking and jogging trail . The running path right-of-way shall be owned and maintained by Grantor.
 - C. Utilities may be placed underground within the Property. Removal of vegetation shall be the minimum necessary to provide required utility access.
 - 3 Grantor and Grantee shall together develop Baseline Documentation to establish the condition of the Property at the time of this conveyance. The Baseline Documentation shall be the basis upon which periodic or random inspections of the Property will be evaluated by the Grantee, and said Baseline Documentation is understood to be admissible and to take precedence in any dispute relating to changed conditions of the Property.
 4. Grantor shall be obligated to pay all ad valorem or other taxes or assessments which may now or hereinafter be assessed or charged upon the Property.
 5. Grantee and its agents and employees at any and all times shall have the unrestricted right to enter and inspect the Property and enforce by proceedings in law or equity or in accordance herewith covenants set forth in this Easement and in furtherance of the rights of Grantee.
 6. This Conservation Easement granted unto Grantee shall be perpetual and shall be to the Grantee and its successors and assigns forever.
 7. Grantor agrees to protect the ecological integrity of the Property and the suitability of the Property as a buffer between Grantor and Grantee, and to inform and consult with Grantee regarding any occurrences or activities that diminish the character or integrity of the Property, or its effectiveness as a buffer between Grantor and Grantee.
 8. In the event of a dispute between the Grantor and the Grantee as to the use of the Property and the terms hereof, said dispute shall be resolved by: (1) Arbitration which shall be binding upon the parties, before three arbitrators one of whom shall be selected by each the Grantor and Grantee, and one of whom shall be chosen by the arbitrators so selected; or (2) Pursuant to the Florida Arbitration Code, Chapter 682, Florida Statutes (1997), now in affect and as amended from time to time. In the event of arbitration, the costs of arbitration shall be borne

equally by the parties, In the event of litigation subsequent to the arbitration, the substantially prevailing party shall be entitled to recover all of its expenses and costs reasonably incurred in pursuit of their rights under this Agreement, which expenses shall include reasonable attorneys fees, whether suit be brought or not, and which shall include any expenses and costs on appeal.

9. The rights granted to Grantee and the covenants agreed to by Grantor shall not only be binding upon Grantor but also upon its agents, representatives, successors and assigns and all other successors who have an interest in the easement and the easement shall continue as a servitude running in perpetuity with Property.

10. The Conservation Easement as herein defined may be modified by mutual written agreement by and between the Grantor and the Grantee and their respective successors, assigns or their respective designees.

IN WITNESS WHEREOF the Grantor and Grantee have executed this Conservation Easement as the day and year first written above.

Witnesses:

HCA HEALTH SERVICES OF FLORIDA, INC

Alvin M. Jinn
Linda E. Winn

By: *Brian C. Robinson*

Corporate Seal

STATE OF FLORIDA
COUNTY OF ALACHUA

The foregoing instrument was acknowledged before me this 23rd day of December 1997, by Brian C. Robinson of the HCA HEALTH SERVICES OF FLORIDA, INC, on behalf of the corporation.

Linda E. Winn
Notary Public



LINDA E. WINN
My Comm Exp. 8/11/2001
Bonded By Service Ins
No. CC670524
IV Personally Known || Other I.D.

Witnesses:

C. David Coffey
Dolly L. Templeton

WHUAMB

Sara M. Drylie

By:

STATE OF FLORIDA
COUNTY OF ALACHUA

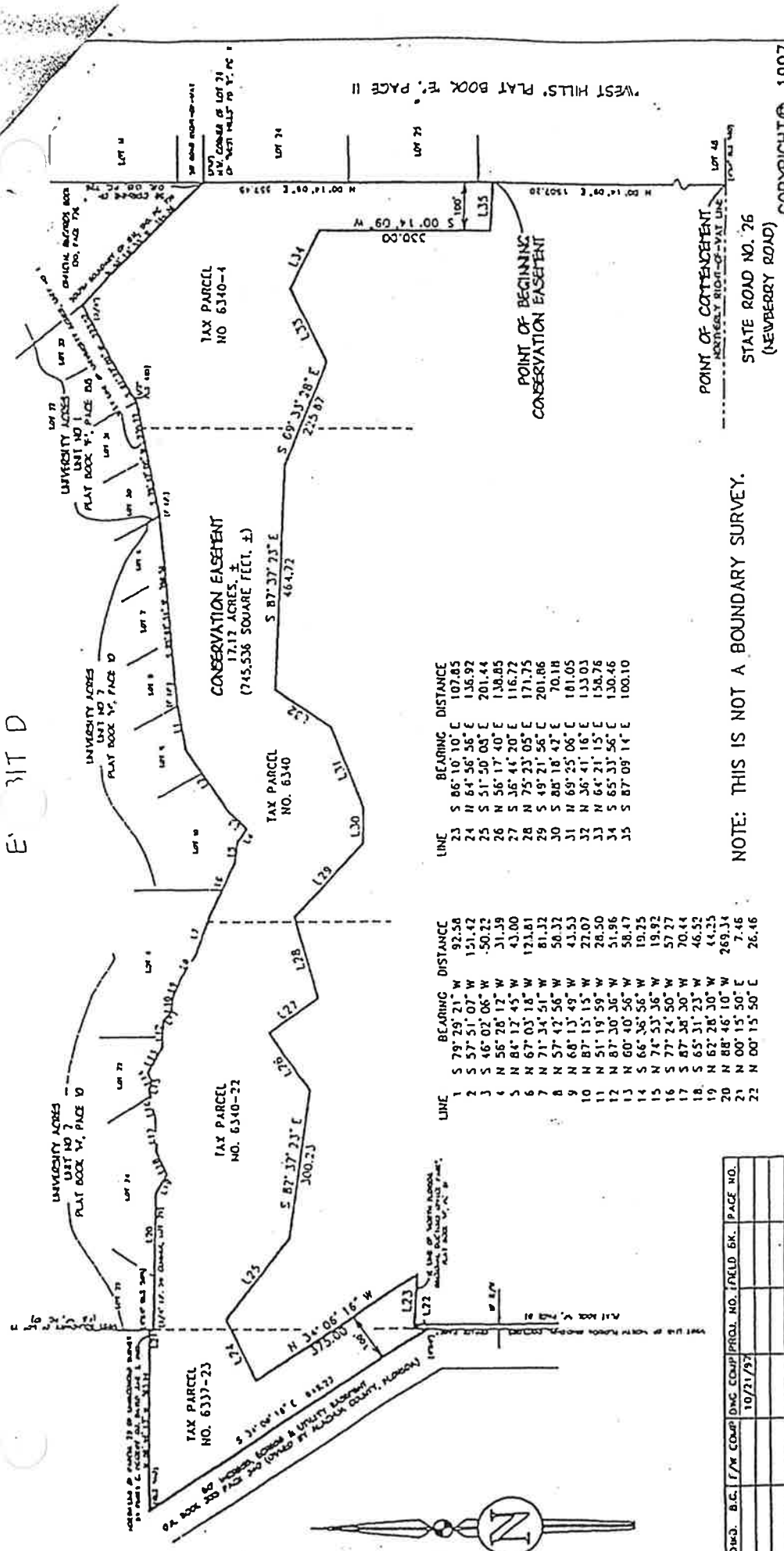
The foregoing instrument was acknowledged before me this 23rd day of December 1997, by Sara M. Drylie of the WHUAMB, on behalf of the neighborhood association.

Dolly L. Templeton
Notary Public



DOLLY L. TEMPLETON
My Commission CC461207
Expires May. 09, 1999
Bonded by HAI
800-422-1555

E' 317 D



NOTE: THIS IS NOT A BOUNDARY SURVEY.

STATE ROAD NO. 26 (NEWBERRY ROAD)

POINT OF COMMENCEMENT

POINT OF BEGINNING CONSERVATION EASEMENT

UNIVERSITY ACRES UNIT NO. 1 PLAT BOOK #, PAGE 10

UNIVERSITY ACRES UNIT NO. 2 PLAT BOOK #, PAGE 10

UNIVERSITY ACRES UNIT NO. 3 PLAT BOOK #, PAGE 10

UNIVERSITY ACRES UNIT NO. 4 PLAT BOOK #, PAGE 10

UNIVERSITY ACRES UNIT NO. 5 PLAT BOOK #, PAGE 10

UNIVERSITY ACRES UNIT NO. 6 PLAT BOOK #, PAGE 10

UNIVERSITY ACRES UNIT NO. 7 PLAT BOOK #, PAGE 10

UNIVERSITY ACRES UNIT NO. 8 PLAT BOOK #, PAGE 10

UNIVERSITY ACRES UNIT NO. 9 PLAT BOOK #, PAGE 10

UNIVERSITY ACRES UNIT NO. 10 PLAT BOOK #, PAGE 10

TAX PARCEL NO. 6340-1

TAX PARCEL NO. 6340

TAX PARCEL NO. 6340-22

TAX PARCEL NO. 6337-23

TAX PARCEL NO. 6337-23

TAX PARCEL NO. 6337-23

TAX PARCEL NO. 6337-23

TAX PARCEL NO. 6337-23

TAX PARCEL NO. 6337-23

CONSERVATION EASEMENT 17.17 ACRES, ± (745,536 SQUARE FEET, ±)

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LINE	BEARING	DISTANCE
23	S 86°10'10" E	107.85
24	N 64°58'38" E	136.92
25	S 51°50'03" E	201.44
26	N 56°17'40" E	138.85
27	S 36°44'20" E	116.72
28	N 75°23'05" E	171.75
29	S 49°21'56" E	201.86
30	S 88°18'42" E	70.18
31	N 69°25'06" E	181.05
32	N 36°41'16" E	133.03
33	N 64°21'15" E	158.76
34	S 65°33'56" E	130.46
35	S 87°09'14" E	100.10

LINE	BEARING	DISTANCE
1	S 79°29'21" W	92.58
2	S 57°51'07" W	151.42
3	S 46°02'06" W	50.22
4	N 56°28'17" W	31.39
5	N 84°12'45" W	43.00
6	N 67°03'18" W	123.81
7	N 71°31'51" W	81.32
8	N 57°42'58" W	50.32
9	N 68°13'49" W	43.53
10	N 87°15'15" W	27.07
11	N 51°19'59" W	28.50
12	N 87°30'36" W	51.96
13	N 60°40'56" W	58.47
14	S 66°38'56" W	19.25
15	N 74°53'38" W	19.92
16	S 77°24'50" W	70.44
17	S 87°38'30" W	46.52
18	S 65°31'23" W	44.25
19	N 62°28'30" W	269.34
20	N 88°46'10" W	7.46
21	N 00°15'50" E	7.46
22	N 00°15'50" E	26.46

- = FOUND CONCRETE MONUMENT
- = SET CONCRETE MONUMENT
- = FOUND REDAR
- = SET REBAR & CAP
- △ = FOUND R.R. SPIKE
- △ = SET R.R. SPIKE
- = FOUND DRILL HOLE
- = SET DRILL HOLE
- = FOUND IRON PIPE
- = SET IRON PIPE

PREPARED FOR: 1) DAVID COTTREY

THE SKETCH HEREIN IS A GENERAL SKETCH AND NOT A SURVEY. IT IS NOT TO BE USED AS EVIDENCE IN ANY COURT OF LAW. THE SURVEYOR'S OFFICE IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THIS SKETCH.

FOR: DAVID COTTREY

SKETCH OF LEGAL DESCRIPTION

A PORTION OF THE SOUTH 1/2 OF SECTION 33,

TOWNSHIP 9 SOUTH, RANGE 19 EAST,

ALACHUA COUNTY, FLORIDA.

CONSERVATION EASEMENT

SEE ATTACHED LEGAL DESCRIPTION

FOR: DAVID COTTREY

ENG. DENMAN & ASSOC. IN.

ENGINEERS • SURVEYORS • PLANNERS

200 N. W. 10th St.

CLERMONT, FLORIDA 33504

TEL. (352) 377-3341

FAX (352) 377-7218

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

DAVID COTTREY

10/21/97

FIELD BK. PAGE NO.

10/21/97

10/21/97

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May 10, 2000

Legal Description

A portion of the South ½ of Section 33, Township 9 South, Range 19 East, Alachua County, Florida; being more particularly described as follows:

Commence at the southwest corner of Lot 48 of 'West Hills', a subdivision as per plat thereof recorded in Plat Book "E", page 11 of the Public Records of Alachua County, Florida and run thence North 00°14'09" East, along the west boundary of said 'West Hills', 2064.65 feet to the northwest corner of Lot 24 of said 'West Hills' and the southeast corner of that certain parcel of land as described in Official Records Book 1315, page 726 of the Public Records of Alachua County, Florida; thence North 46°16'55" West, along the south boundary of said parcel (O.R. 1315, pg. 726), a distance of 137.82 feet to the POINT OF BEGINNING; thence continue North 46°16'55" West, along said south boundary, 206.44 feet to a point on the southeasterly line of 'University Acres, Unit No. 1', a subdivision as per plat thereof recorded in Plat Book "F", page 88 of said Public Records; thence South 61°27'02" West, along the southeasterly line of Lots 33 and 32 of said subdivision (Plat Book "F", pg. 88), a distance of 223.52 feet to the southwest corner of said Lot 32; thence South 78°42'08" West, along the south boundary of Lots 31 and 30 of said subdivision (Plat Book "F", pg. 88), a distance of 235.72 feet to the southwest corner of said Lot 30 and the southeast corner of Lot 6 of 'University Acres, Unit No. 2', a subdivision as per plat thereof, recorded in Plat Book "H", page 10 of said Public Records; thence South 85°02'54" West, along the south boundary of said subdivision (Plat Book "H", pg. 10), a distance of 396.54 feet to the southwest corner of Lot 8 of said subdivision (Plat Book "H", pg. 10); thence southwesterly, northwesterly and westerly, along the south boundary of said subdivision (Plat Book "H", pg. 10) through the following 20 courses and distances:
1) South 79°29'21" West, 92.58 feet; 2) South 57°51'07" West, 151.42 feet; 3) South 46°02'06" West, 50.22 feet; 4) North 56°28'12" West, 31.39 feet; 5) North 84°12'45" West, 43.00 feet; 6) North 67°03'18" West, 123.81 feet; 7) North 71°34'51" West, 81.32 feet; 8) North 57°42'56" West, 58.32 feet; 9) North 68°13'49" West, 43.53 feet; 10) North 87°15'15" West, 22.07 feet; 11) North 51°19'59" West, 28.50 feet; 12) North 87°30'36" West, 51.96 feet; 13) North 60°40'56" West, 58.47 feet; 14) South 66°36'56" West, 19.25 feet; 15) North 74°53'36" West, 19.92 feet; 16) South 77°24'50" West, 57.27 feet; 17) South 87°38'30" West, 70.44 feet; 18) South 65°31'23" West, 46.52 feet; 19) North 62°28'30" West, 44.25 feet; 20) North 88°46'10" West, 269.34 feet to the southwest corner of Lot 25 of said subdivision (Plat Book "H", pg. 10) and to a point on the easterly line of Parcel 23 of an unrecorded survey by Perry C. McGriff Co. dated June 3, 1965; thence South 00°15'50" West, along said easterly line, 501.16 feet to the

northwest corner of 'North Florida Regional Doctors Office Park', a subdivision as per plat thereof recorded in Plat Book "H", page 81 of said Public Records; thence South $86^{\circ}10'10''$ East, along the northerly line of said subdivision (Plat Book "H", page 81), a distance of 203.15 feet; thence South $77^{\circ}32'13''$ East, along said northerly line, 902.18 feet; thence North $62^{\circ}35'31''$ East, along said northerly line, 369.89 feet; thence North $85^{\circ}01'54''$ East, along said northerly line, 428.70 feet to the northeast corner of said 'North Florida Regional Doctors Office Park'; thence South $00^{\circ}14'09''$ West, along the east line of said 'North Florida Regional Doctors Office Park', 130.79 feet; thence South $87^{\circ}09'14''$ East, 399.81 feet to a point lying 100.00 feet westerly of the west boundary of said 'West Hills'; thence North $00^{\circ}14'09''$ East, 100.00 feet westerly of and parallel with said west boundary (measured perpendicular), 647.73 feet to the POINT OF BEGINNING.

Containing 29.199 acres (1,271,921 square feet), more or less.

4. **Petition 176ZON-00 PB** C. David Coffey, Esq., agent for HCA Health Services of Florida, Inc. Rezone property from RSF-1 (3.5 units/acre single-family residential district) to MD (Medical services district). Located in the 6400 block of Northwest 9th Boulevard. Related to Petition 105LUC-00 PB.

Mr. Ralph Hilliard was recognized. Mr. Hilliard presented a map of the site and described it in detail. He noted a strip of the site was to be under a conservation easement. He explained that the petition was intended to allow the zoning of the site to be compatible with the land use change approved by the board in Petition 105LUC-00 PB. He indicated that the purpose of both petitions was to allow construction of medical offices. Mr. Hilliard stated that staff found the changes consistent with the Comprehensive Plan and recommended approval of the petition. He offered to answer any questions from the board.

Mr. Polshek asked who would manage the conservation easement area.

Mr. Hilliard indicated that the easement would be managed by the property owner. He explained that the strip was designated for greenspace and would serve as a buffer for the neighborhood.

Mr. Guy referred to a private agreement between the hospital and a neighborhood association for adjacent property owners. He asked why an MD zoning was requested instead of a PD zoning. He also asked if an official notice of support from the neighborhood association had been presented to the City as required by article seven of that agreement.

Mr. Hilliard discussed the agreement and noted that the City did not enforce such agreements.

There was discussion of the agreement.

Mr. David Coffey, agent for the petitioner, was recognized. Mr. Coffey indicated that the petitioner agreed with staff's recommendations. He explained that the petitioner was committed to the agreement with the neighborhood association. He noted that the creation of the conservation easement was in the official public record. He discussed the conservation easement and noted that, as a result of that agreement, no development could occur in that easement. Mr. Coffey explained that the purpose of the easement was to establish a buffer for the surrounding neighbors. He indicated that the president of the homeowners association had been contacted about the requested zoning change but did not press the association to provide notice of support.

Mr. Polshek asked why the land use and zoning of the conservation easement was not Conservation.

Mr. Coffey explained the idea was to insure that the conservation area could be used to meet the green space requirements of the Code.

Mr. Pearce noted that there appeared to be a distance of two to three hundred feet to the nearest residential dwelling.

There was discussion of possible buildings on the site.

Mr. Pearce asked if there was a consensus of support for the project from the neighborhood.

Mr. Coffey indicated that the consensus was embodied in the agreement between the neighborhood association and the petitioner. He explained that it took approximately five years to complete the document.

Vice-Chair Fried opened the floor to public comment.

Mr. Tony Forneras, abutting property owner, was recognized. Mr. Forneras indicated that he had a concern about the proposed conservation easement. He asked why the easement could not be rezoned as a Conservation District rather than an easement. He suggested that such zoning would provide greater protection. He asked if the easement could be used for stormwater storage.

Mr. Hilliard discussed Conservation Land Use and Zoning Districts. He pointed out that there were some uses in a Conservation District such as recreation, that allowed parking. He agreed that conservation areas were often used for water storage. He explained that any stormwater storage management system would be certified by engineers and meet the Code. Mr. Hilliard indicated that he believed the agreement with the homeowners association did allow some surface water management in the area.

Mr. Forneras cited a concern that trees would be removed to construct stormwater ponds.

Mr. Coffey explained that the agreement with the neighborhood association creating the conservation easement prevented the use of the area for stormwater if it caused the loss of vegetation. He pointed out that there were a few small areas in the conservation easement that did not have trees and those areas could be used for stormwater. He indicated that he did not believe a Conservation Zoning would provide more protection than the private agreement. He discussed the development that could take place in the Conservation Zoning District. Mr. Coffey explained that Conservation Zoning was discussed extensively in the meetings that led to the agreement.

Vice-Chair Fried closed the floor to public comment.

Mr. Polshek discussed the agreement with the homeowners association and noted that drainage and stormwater were described very specifically as were the specific uses allowed in the easement. He indicated that he believed it was restrictive enough to deal with the issues raised.

Mr. Carter made the motion to approve the petition and Mr. Pearce seconded.

Mr. Guy indicated that he would not support the petition because the agreement required an official notice of support from the homeowners association and that notice had not been provided to the board. He explained that he did not feel comfortable approving a petition that appeared to violate a legal agreement.

Mr. Hilliard noted that notice was sent to all nearby property owners and staff received no objections to the rezoning.

Mr. Pearce pointed out the significant buffer between the medical office use and the nearest houses.

Mr. Polshek pointed out that the agreement and the buffer were unique and such agreements should be encouraged. He noted that the agreement was more restrictive than land use and zoning.

<u>Motion By:</u> Mr. Carter	<u>Seconded By:</u> Mr. Pearce
<u>Moved to:</u> Approve Petition 176ZON-00 PB.	<u>Upon Vote:</u> Motion Carried 4 - 1 Yeas: Carter, Fried, Pearce, Polshek Nay: Guy

