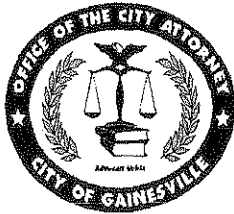


Legislative #

100679-A



MEMORANDUM

Office of the City Attorney

Legistar No. 100679
Phone: 334-5011/Fax 334-2229

Box 46

TO: CITY COMMISSION

DATE: July 21, 2011
SECOND READING

FROM: CITY ATTORNEY

SUBJECT: Ordinance No.100679; Petition No.PB-10-135 LUC-A
An Ordinance amending the City of Gainesville 2000-2010
Comprehensive Plan Future Land Use Map; by changing the land use
categories of certain properties annexed into the City, as more specifically
described as follows: Area 1: from the Alachua County land use categories
of "Low Density Residential (1-4 DU/acre)", "Medium Density Residential
(4-8 DU/acre)", "High Density Residential (14-24 DU/acre)", and
"Institutional" to the City of Gainesville land use categories of
"Conservation" and "Public Facilities"; Area 2: from the Alachua County
land use category of "Low Density Residential (1-4 DU/acre)" to the City
of Gainesville land use category of "Conservation"; Area 3: from the
Alachua County land use categories of "Low Density Residential (1-4
DU/acre)", "Medium High Density Residential (8-14 DU/acre)", and
"Industrial/Manufacturing", to the City of Gainesville land use categories of
"Residential Low-Density (up to 12 units per acre)", "Residential Medium-
Density (8-30 units per acre)", "Public Facilities" and "Business Industrial";
Area 4: from the Alachua County land use categories of
"Industrial/Manufacturing", "Office/Residential", "Commercial" and
"Tourist/Entertainment" to the City of Gainesville land use categories of
"Business Industrial" and "Commercial"; located generally South of SW 7th
Avenue, East of I-75, West of SW 34th Street and North of SW Archer
Road, as more specifically shown and described in this ordinance;
providing directions to the City Manager and the codifier; providing a
severability clause; and providing an effective date.

Recommendation: The City Commission (1) receive the report of the Department
of Community Affairs; and (2) adopt the proposed ordinance as revised.

STAFF REPORT

This petition is a large-scale land use amendment to change Future Land Use categories from Alachua County to City of Gainesville designations. It covers approximately 277 acres of southwest Gainesville in the vicinity of SW 20th Avenue, SW Archer Road, and SW 34th Street.

The Commercial land use category was selected to reflect existing conditions and to be compatible with surrounding uses: the Conservation land use category for the northern portion of the subject area, which includes Hogtown Creek, wetlands, and the ten-year flood channel; the Business Industrial land use category for the lands adjacent to the interstate along the southern

portion of SW 43rd Street; the Commercial land use category for the parcel along SW Archer Road; and the Residential Low Density, Residential Medium-Density, and Public Facilities land use categories, as appropriate, for several small parcels in the annexation area.

The original "Southwest Annexation" petitions (PZ-09-145LUC and PZ-09-146ZON) were presented to the Plan Board on December 7, 2009 and to the City Commission on January 21, 2010. The City Commission voted to continue the petitions to allow further exploration of implementation options for the Urban Village portion of the petition. Per the requirements of sec. 30-347.8 of the Land Development Code, "If a petition or recommendation for a change or amendment is not acted upon finally by the city commission within six months of the date upon which the report of the city plan board is filed with the city commission, the petition shall be deemed denied without prejudice. However, no petition shall be deemed denied if the city commission has continued its consideration to a date certain, or has stayed action on the petition by enactment of a moratorium ordinance." Since no action was taken during the 6-month time limit, the original land use petition (PZ-09-145LUC) and associated rezoning petition (PZ-09-146ZON) have been deemed denied without prejudice.

Given the opportunity to reintroduce this item, Planning staff chose to address the parcels that comprise the Urban Village as a separate petition, which is now PB-10-137LUC. Petition PB-10-135LUC represents only parcels located outside the Urban Village. The attached staff report reflects all of the Plan Board's recommended changes.

Public notice was published in the Gainesville Sun on January 11, 2011. The Plan Board held a public hearing on January 27, 2011.

The petition requesting a large-scale land use amendment to the City of Gainesville 2000-2010 Comprehensive Plan Future Land Use Map, commonly referred to as the Southwest Annexation land use amendment (Petition PB-10-135LUC), was approved by the City Commission at a public hearing on March 3, 2011.

During preparation of the ordinance to adopt this land use change, it was determined by the City Attorney's office that the areas of contiguous parcels could be adopted as a large-scale amendment, but the smaller areas of non-contiguous parcels, each totaling less than ten contiguous acres, should be separated into a small-scale land use amendment. The total number of parcels and overall acreage of the request remains the same; however, the Southwest Annexation will be implemented through two ordinances. The small-scale land use amendment is now **PB-10-135LUC-B** and Ordinance No. **100859**.

The large-scale amendment is now **PB-10-135LUC-A** and Ordinance No. **100679**, which reflects the parcels mapped in Exhibits A through H of this ordinance.

CITY ATTORNEY MEMORANDUM

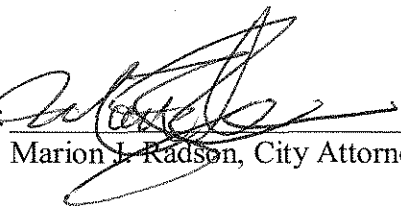
Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The second hearing will be held at the adoption stage of the ordinance and must be advertised approximately five (5) days after the day that the second advertisement is published.

In accordance with the new growth management statutory law (House Bill 7207, now Chapter Law 2011-139) effective June 2, 2011, the state land planning agency issued a letter dated June 6, 2011 stating it identified no comments related to important state resources and facilities that

will be adversely impacted if this comprehensive plan amendment is adopted. A copy of their letter is attached to this memorandum. No other reviewing agencies provided comments.

This ordinance, if adopted on second reading, will be sent to the state land planning agency, and the Plan amendment, if not timely challenged, shall be effective 31 days after the state land planning agency notifies the City that the plan amendment package is complete. If the Plan amendment is challenged, the amendment will become effective on the date the state land planning agency or the Administration Commission (Governor and Cabinet) enters a final order determining this adopted amendment is in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commenced before this plan amendment has become effective. Since the first reading of this ordinance occurred prior to June 2, 2011, it is necessary to revise Section 8 of the ordinance (the effective date section) to conform to the new law.

Prepared and
Submitted by:



Marion J. Radson, City Attorney

MJR/afm

Attachment

Passed on first reading on May 5, 2011 by a vote of 7-0.

ORDINANCE NO. 100679

1
2 **An Ordinance amending the City of Gainesville 2000-2010**
3 **Comprehensive Plan Future Land Use Map; by changing the land use**
4 **categories of certain properties annexed into the City, as more**
5 **specifically described as follows: Area 1: from the Alachua County land**
6 **use categories of “Low Density Residential (1-4 DU/acre)”, “Medium**
7 **Density Residential (4-8 DU/acre)”, “High Density Residential (14-24**
8 **DU/acre)”, and “Institutional” to the City of Gainesville land use**
9 **categories of “Conservation” and “Public Facilities”; Area 2: from the**
10 **Alachua County land use category of “Low Density Residential (1-4**
11 **DU/acre)” to the City of Gainesville land use category of**
12 **“Conservation” ; Area 3: from the Alachua County land use categories**
13 **of “Low Density Residential (1-4 DU/acre)”, “Medium High Density**
14 **Residential (8-14 DU/acre)”, and “Industrial/Manufacturing”, to the**
15 **City of Gainesville land use categories of “Residential Low-Density (up**
16 **to 12 units per acre)”, “Residential Medium-Density (8-30 units per**
17 **acre)”, “Public Facilities” and “Business Industrial”; Area 4: from the**
18 **Alachua County land use categories of “Industrial/Manufacturing”,**
19 **“Office/Residential”, “Commercial” and “Tourist/Entertainment” to**
20 **the City of Gainesville land use categories of “Business Industrial” and**
21 **“Commercial”; located generally South of SW 7th Avenue, East of I-75,**
22 **West of SW 34th Street and North of SW Archer Road, as more**
23 **specifically shown and described in this ordinance; providing directions**
24 **to the City Manager and the codifier; providing a severability clause;**
25 **and providing an effective date.**
26

27 **WHEREAS,** publication of notice of a public hearing was given that the Future Land Use
28 Map be amended by changing the land use category of certain properties , as more specifically
29 described in this ordinance, annexed into the City of the following Areas: Area 1: from the Alachua
30 County land use categories of “Low Density Residential (1-4 DU/acre)”, “Medium Density
31 Residential (4-8 DU/acre)”, “High Density Residential (14-24 DU/acre)”, and “Institutional” to the
32 City of Gainesville land use categories of “Conservation” and “Public Facilities”; Area 2: from the
33 Alachua County land use category of “Low Density Residential (1-4 DU/acre)” to the City of
34 Gainesville land use category of “Conservation” ; Area 3: from the Alachua County land use

1 categories of “Low Density Residential (1-4 DU/acre)”, “Medium High Density Residential (8-14
2 DU/acre)”, and “Industrial/Manufacturing”, to the City of Gainesville land use categories of
3 “Residential Low-Density (up to 12 units per acre)”, “Residential Medium-Density (8-30 units per
4 acre)”, “Public Facilities” and “Business Industrial”; Area 4: from the Alachua County land use
5 categories of “Industrial/Manufacturing”, “Office/Residential”, “Commercial” and
6 “Tourist/Entertainment” to the City of Gainesville land use categories of “Business Industrial” and
7 “Commercial”; and

8 **WHEREAS**, notice was given and publication made as required by law and a public
9 hearing was held by the City Plan Board on January 27, 2011; and

10 **WHEREAS**, notice was given and publication made of a public hearing which was then
11 held by the City Commission on March 3, 2011; and

12 **WHEREAS**, pursuant to law, an advertisement no less than two columns wide by 10
13 inches long was placed in a newspaper of general circulation notifying the public of this
14 proposed ordinance and of the Public Hearing to be held in the City Commission Meeting Room,
15 First Floor, City Hall, in the City of Gainesville at least seven (7) days after the day the first
16 advertisement was published; and

17 **WHEREAS**, pursuant to law, after the public hearing at the transmittal stage, the City of
18 Gainesville transmitted copies of this proposed change to the State Land Planning Agency; and

19 **WHEREAS**, a second advertisement no less than two columns wide by 10 inches long
20 was placed in the aforesaid newspaper notifying the public of the second Public Hearing to be
21 held at the adoption stage at least five (5) days after the day the second advertisement was
22 published; and

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

4 **WHEREAS**, prior to adoption of this ordinance, the City Commission has considered the
5 comments, recommendations and objections, if any, of the State Land Planning Agency.

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

8 **Section 1.** Area 1: The Future Land Use Map of the City of Gainesville 2000-2010
9 Comprehensive Plan is amended by changing the land use categories of the following described
10 properties from the Alachua County land use categories of “Low Density Residential (1-4
11 DU/acre)”, “Medium Density Residential (4-8 DU/acre)”, “High Density Residential (14-24
12 DU/acre)”, and “Institutional” as shown on Exhibit “A”, to the City of Gainesville land use
13 categories of “Conservation” and “Public Facilities” as shown on Exhibit “B”:

14 See maps attached hereto as Exhibit "A" and Exhibit “B”, and made
15 a part hereof as if set forth in full.

16 **Section 2.** Area 2: The Future Land Use Map of the City of Gainesville 2000-2010
17 Comprehensive Plan is amended by changing the land use category of the following described
18 property from the Alachua County land use category of “Low Density Residential (1-4 DU/acre)”
19 as shown on Exhibit “C”, to the City of Gainesville land use category of “Conservation” as shown
20 on Exhibit “D”:

21 See maps attached hereto as Exhibit "C" and Exhibit “D”, and made a part
22 hereof as if set forth in full.

23 **Section 3.** Area 3: The Future Land Use Map of the City of Gainesville 2000-2010
24 Comprehensive Plan is amended by changing the land use categories of the following described

1 properties from the Alachua County land use categories of “Low Density Residential (1-4
2 DU/acre)”, “Medium High Density Residential (8-14 DU/acre)”, and “Industrial/Manufacturing” as
3 shown on Exhibit “E”, to the City of Gainesville land use categories of “Residential Low-Density
4 (up to 12 units per acre)”, “Residential Medium-Density (8-30 units per acre)”, “Public Facilities”
5 and “Business Industrial” as shown on Exhibit “F”:

6 See maps attached hereto as Exhibit "E" and Exhibit "F", and made a
7 part hereof as if set forth in full.

8 **Section 4.** Area 4: The Future Land Use Map of the City of Gainesville 2000-2010
9 Comprehensive Plan is amended by changing the land use categories of the following described
10 properties from the Alachua County land use categories of “Industrial/Manufacturing”,
11 “Office/Residential”, “Commercial” and “Tourist/Entertainment” as shown on Exhibit “G”, to the
12 City of Gainesville land use categories of “Business Industrial” and “Commercial” as shown on
13 Exhibit “H”:

14 See maps attached hereto as Exhibit "G" and Exhibit "H", and made
15 a part hereof as if set forth in full.

16 **Section 5.** The City Manager is authorized and directed to make the necessary changes in
17 maps and other data in the City of Gainesville 2000-2010 Comprehensive Plan, or element, or
18 portion thereof in order to comply with this ordinance.

19 **Section 6.** If any word, phrase, clause, paragraph, section or provision of this ordinance
20 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
21 finding shall not affect the other provisions or applications of the ordinance which can be given
22 effect without the invalid or unconstitutional provisions or application, and to this end the
23 provisions of this ordinance are declared severable.

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

3 Section 8. This ordinance shall become effective immediately upon passage on second
4 reading; however, the effective date of this plan amendment, if the amendment is not timely
5 challenged, shall be 31 days after the state land planning agency notifies the City that the plan
6 amendment package is complete in accordance with Chapter 163.3184, F.S. If timely challenged,
7 this amendment shall become effective on the date the state land planning agency or the
8 Administration Commission enters a final order determining this adopted amendment to be in
9 compliance in accordance with Chapter 163.3184, F.S. No development orders, development
10 permits, or land uses dependent on this amendment may be issued or commenced before this
11 plan amendment has become effective.

12 PASSED AND ADOPTED this _____ day of _____, 2011.

13

14

15

CRAIG LOWE, MAYOR

16 ATTEST:

APPROVED AS TO FORM AND LEGALITY:

17

18

19

20

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

21

22

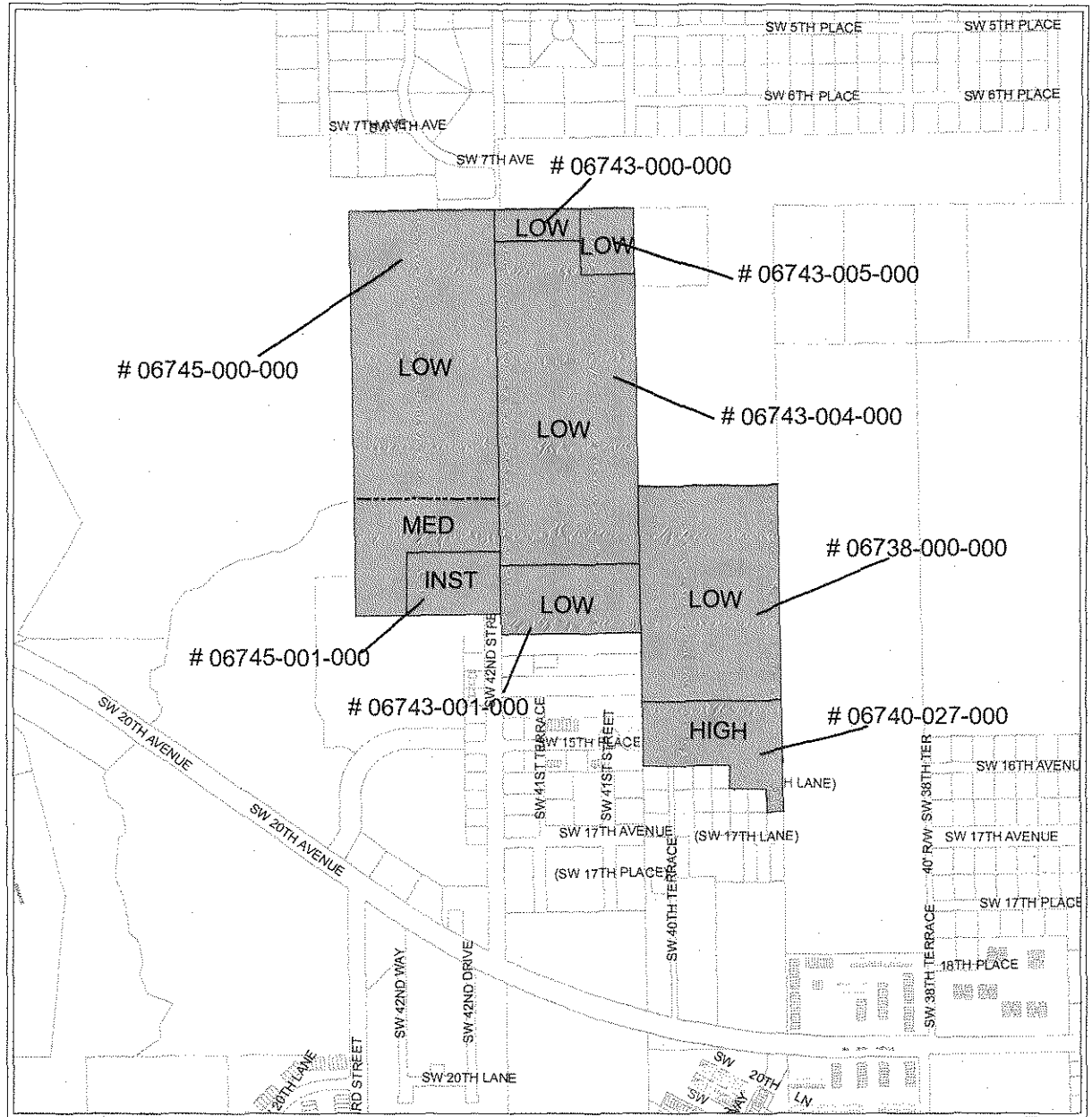
23 This Ordinance passed on first reading on this ____ day of _____, 2011.

24 This Ordinance passed on second reading this ____ day of _____, 2011.

Exhibit "A"

Alachua County Land Use Designations

LOW Low Density Residential (1-4 DU/acre)
 MED Medium Density Residential (4-8 DU/acre)
 HIGH High Density Residential (14-24 DU/acre)
 INST Institutional



EXISTING LAND USE

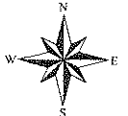
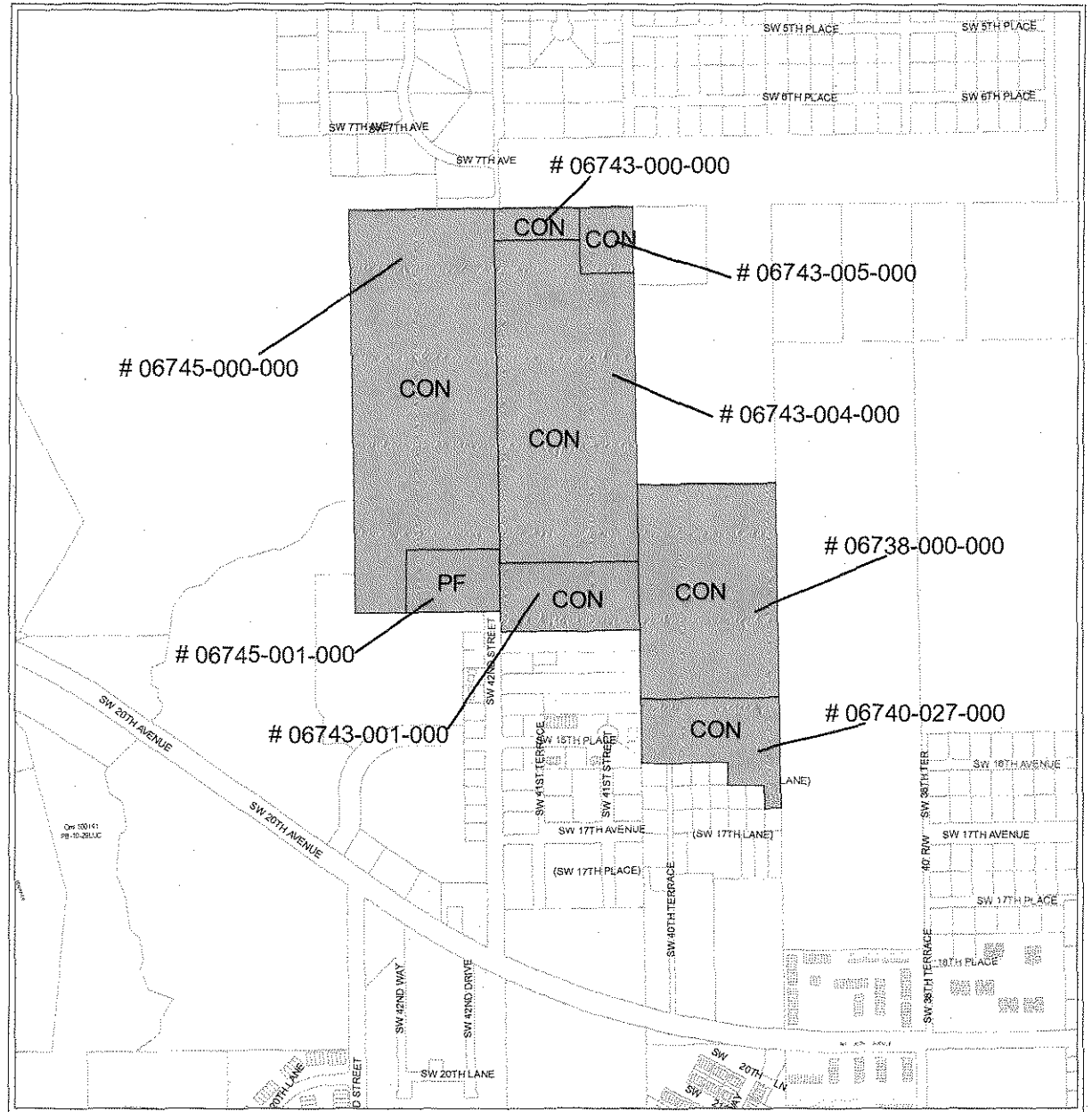
	Name	Petition Request	Map(s)	Petition Number
 No Scale	City of Gainesville, applicant	Change FLUM from Alachua County Land Use categories to City of Gainesville Land Use Categories.	4144	Southwest Annexation PB-10-135LUC - A

Exhibit "B"

City of Gainesville Land Use Designations

CON Conservation
PF Public Facilities



PROPOSED LAND USE

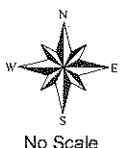
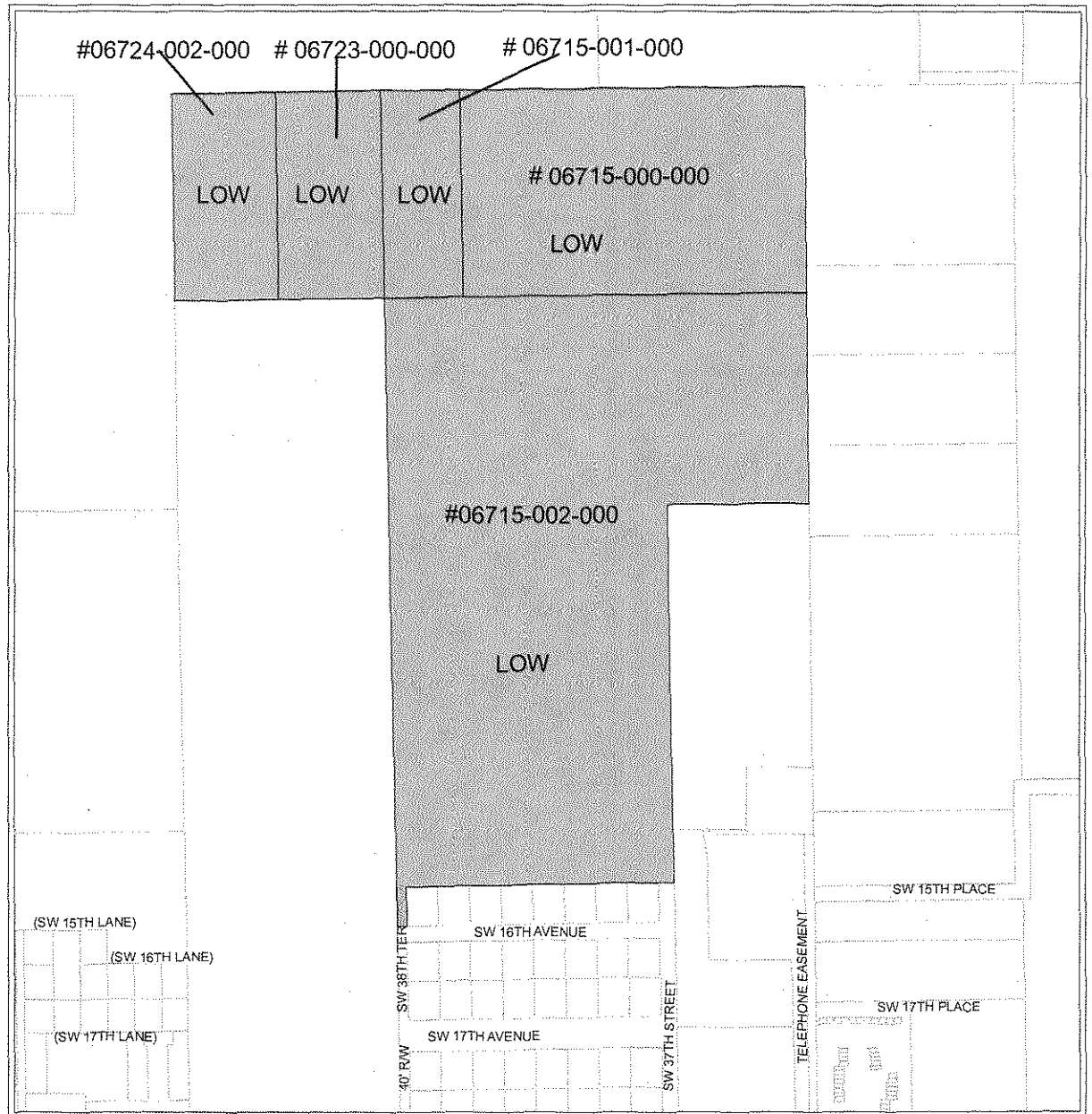
Name	Petition Request	Map(s)	Petition Number
 No Scale	City of Gainesville, applicant	Change FLUM from Alachua County Land Use categories to City of Gainesville Land Use categories.	4144 Southwest Annexation PB-10-135LUC - A

Exhibit "C"

Alachua County Land Use Designations

LOW Low Density
Residential (1-4 DU/acre)



EXISTING LAND USE

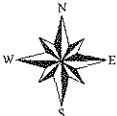
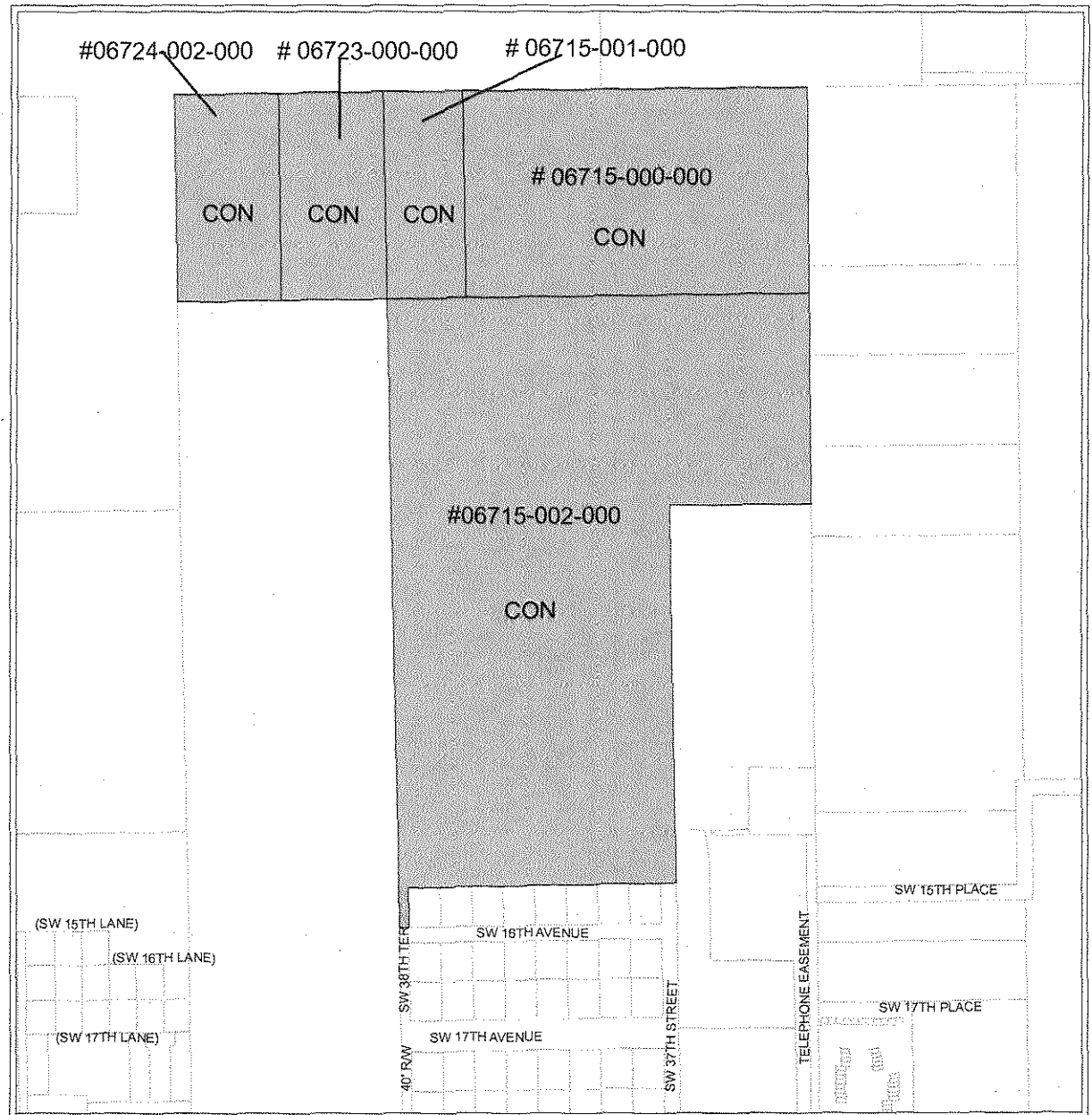
	Name	Petition Request	Map(s)	Petition Number
 No Scale	City of Gainesville, applicant	Change FLUM from Alachua County Land Use category to City of Gainesville Land Use category.	4145	Southwest Annexation PB-10-135LUC - A

Exhibit "D"

**City of Gainesville
Land Use Designations**

CON Conservation



PROPOSED LAND USE


 No Scale	Name	Petition Request	Map(s)	Petition Number
	City of Gainesville, applicant	Change FLUM from Alachua County Land Use category to City of Gainesville Land Use category.	4145	Southwest Annexation PB-10-135LUC - A

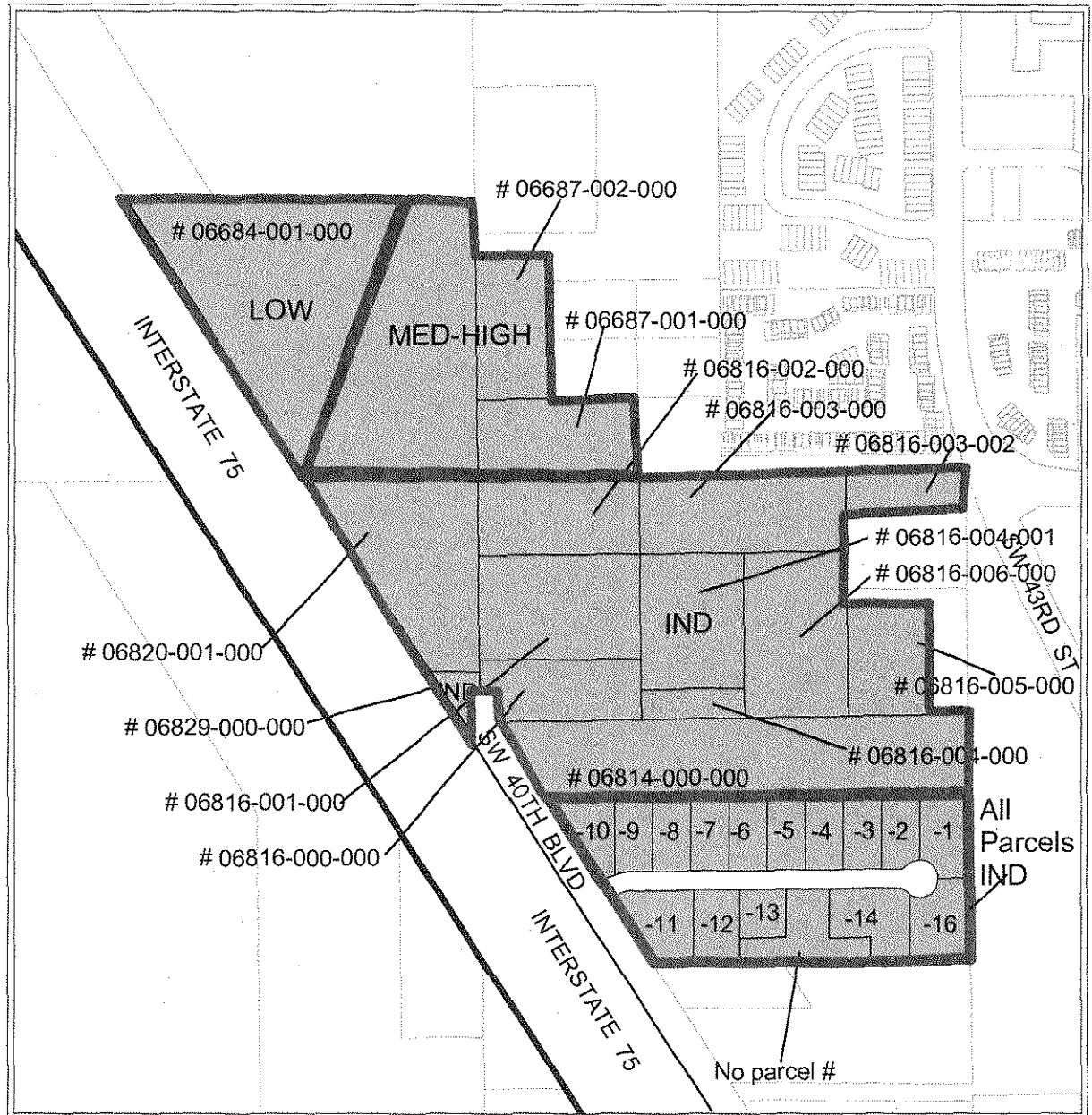
Exhibit "E"

Alachua County Land Use Designations

- IND Industrial/Manufacturing
- LOW Low Density Residential (1-4 DU/acre)
- MED-HIGH Medium-High Density Residential (8-14 DU/acre)

Unless otherwise indicated, all parcel numbers begin with "06814-"

City Limits



EXISTING LAND USE

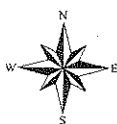
 No Scale	Name	Petition Request	Map(s)	Petition Number
	City of Gainesville, applicant	Change FLUM from Alachua County Land Use categories to City of Gainesville Land Use categories.	4343	Southwest Annexation PB-10-135LUC - A

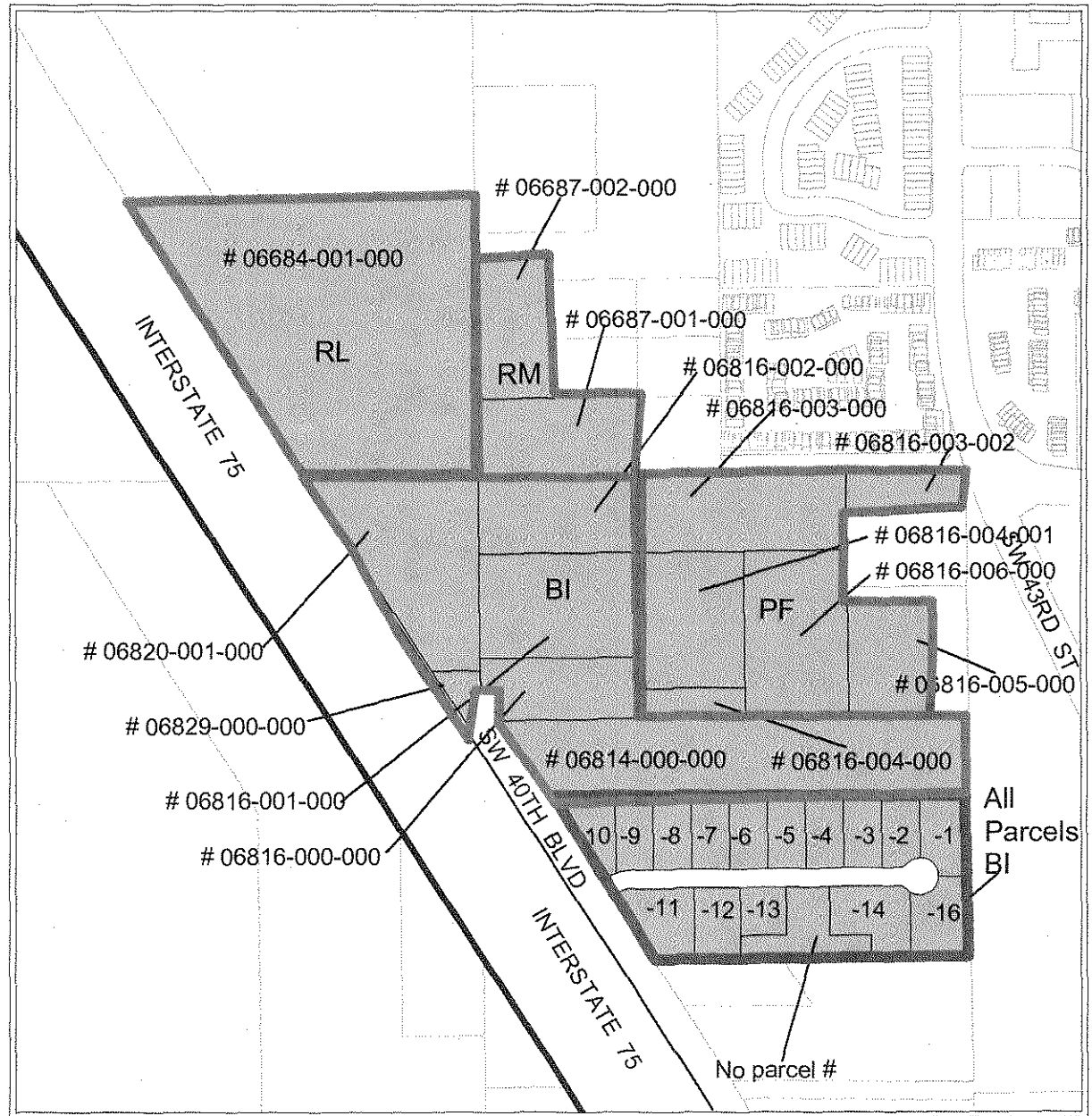
Exhibit "F"

City of Gainesville Land Use Designations

- BI Business Industrial
- PF Public Facilities
- RL Residential Low Density (up to 12 DU/acre)
- RM Residential Medium Density (8-30 DU/acre)

Unless otherwise indicated, all parcel numbers begin with "06814-"

City Limits



PROPOSED LAND USE


	Name	Petition Request	Map(s)	Petition Number
 No Scale	City of Gainesville, applicant	Change FLUM from Alachua County Land Use categories to City of Gainesville Land Use categories.	4343	Southwest Annexation PB-10-135LUC - A

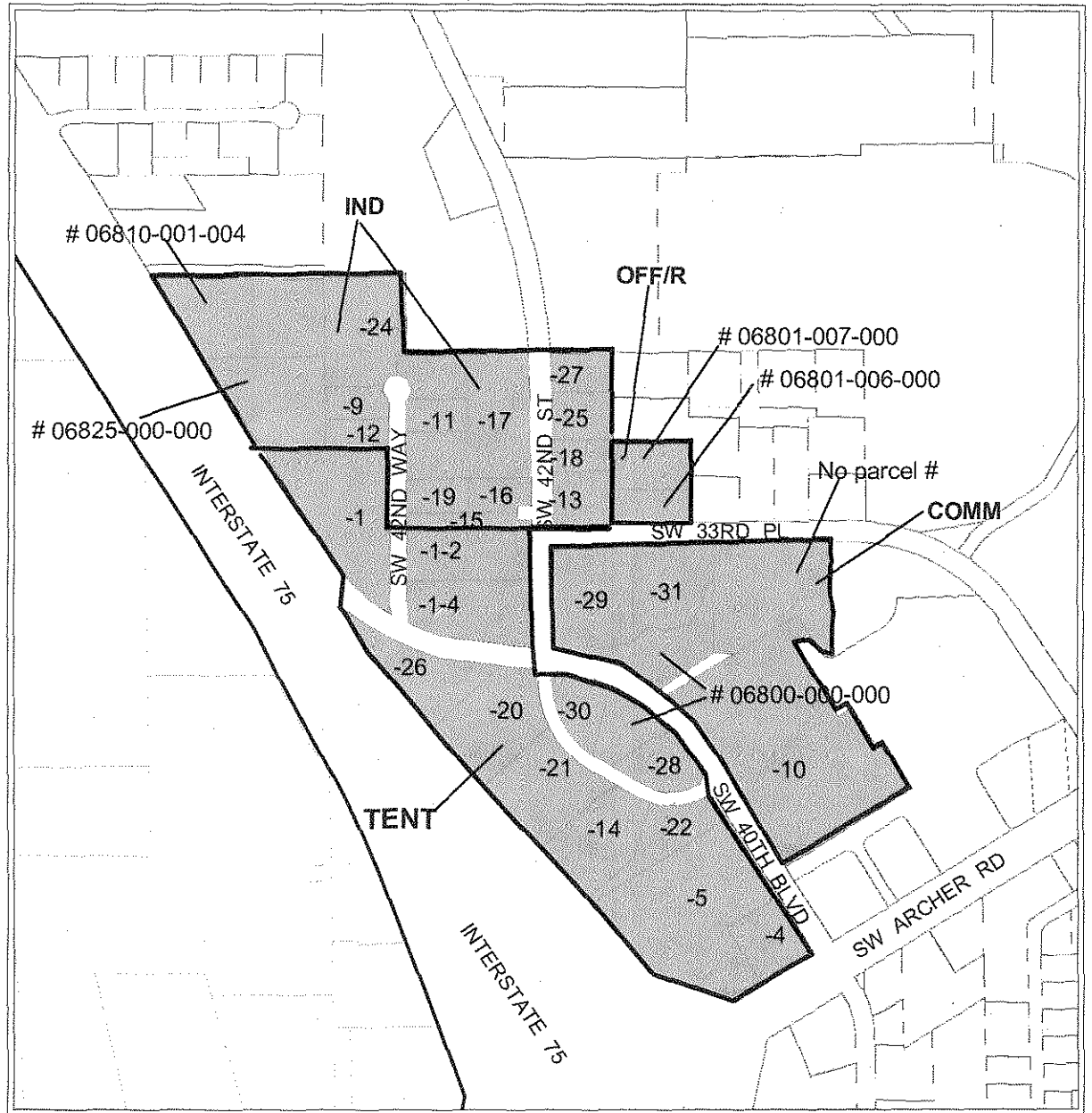
Exhibit "G"

**Alachua County
Land Use Designations**

- COMM Commercial
- IND Industrial/Manufacturing
- OFF/R Office/Residential
- TENT Tourist/Entertainment

Unless otherwise indicated, all parcel numbers begin with "06800-"

City Limits



EXISTING LAND USE

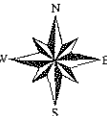
 No Scale	Name	Petition Request	Map(s)	Petition Number
	City of Gainesville, applicant	Change FLUM from Alachua County Land Use categories to City of Gainesville Land Use categories.	4343, 4344, 4444	Southwest Annexation PB-10-135LUC - A

Exhibit "H"

**City of Gainesville
Land Use Designations**

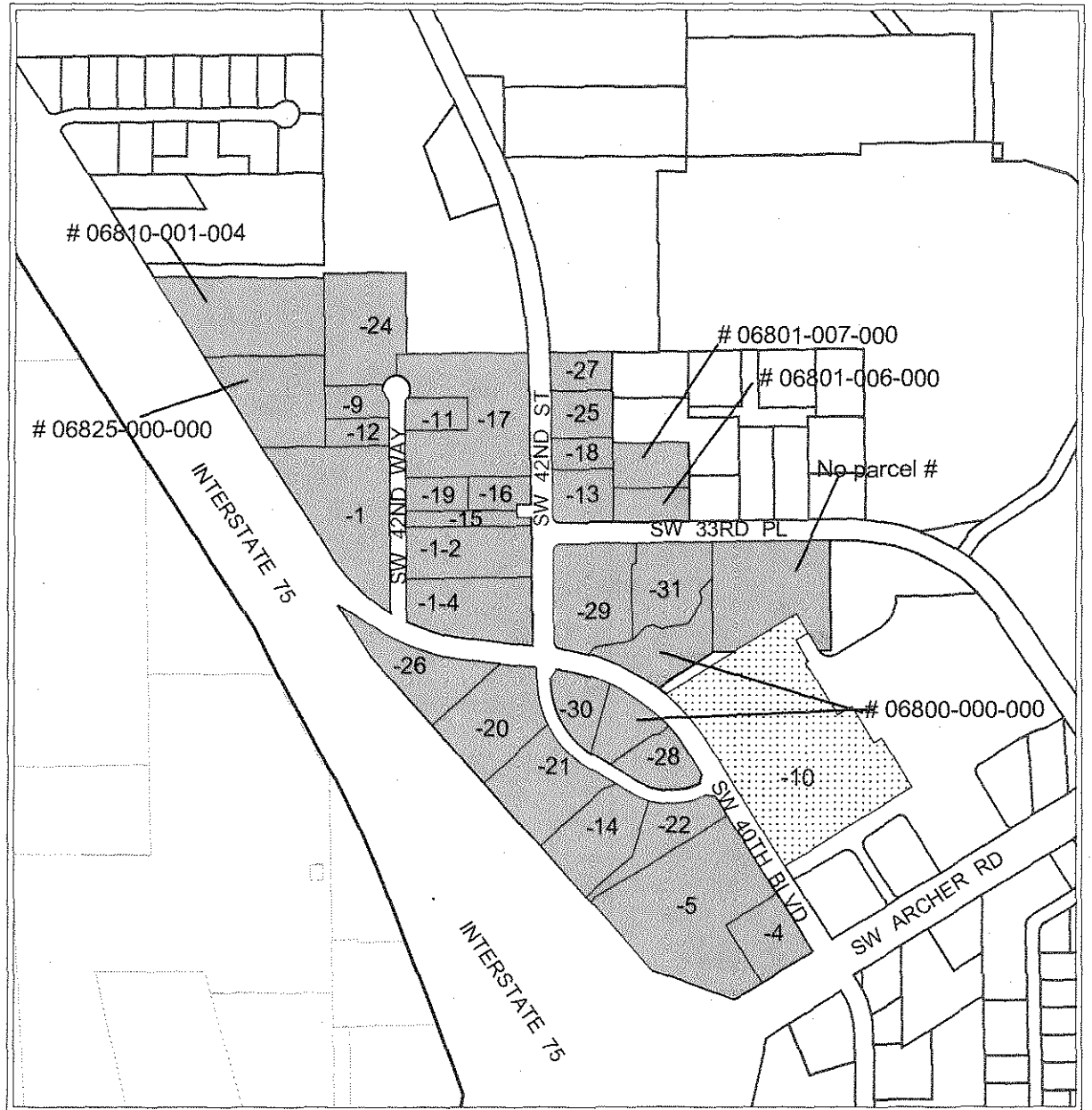
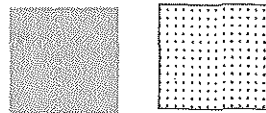
BI Business Industrial
C Commercial

Unless otherwise indicated, all parcel numbers begin with "06800-"


 City Limits

LEGEND

Business Industrial (BI) Land Use
Commercial (C) Land Use



PROPOSED LAND USE

	Name	Petition Request	Map(s)	Petition Number
 <p>No Scale</p>	City of Gainesville, applicant	Change FLUM from Alachua County Land Use categories to City of Gainesville Land Use categories.	4343, 4344, 4444	Southwest Annexation PB-10-135LUC - A