



MEMORANDUM

Office of the City Attorney

LEGISLATIVE ITEM NO. 030623 *a*

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

TO: Mayor and City Commission

DATE: February 23, 2004

FROM: City Attorney

CITY ATTORNEY
ADOPTION READING

SUBJECT: Ordinance No. 0-04-15, Petition 157LUC-03PB
An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Map; by changing the land use category of certain property from "Mixed-Use Medium-Intensity (12-30 units per acre)" to "Commercial"; located in the vicinity of the 2500 block of North Main Street; providing a severability clause; providing a repealing clause; and providing an effective date.

Recommendation: The City Commission: 1) approve Petition 157LUC-03PB; and 2) adopt the proposed ordinance.

STAFF REPORT

This petition is related to zoning Petition 158ZON-03 PB. The approximately 0.82 acre vacant property is located on the west side of North Main Street on the southwest corner of North Main Street and Northeast 1st Boulevard. The property is zoned MU-2 (12-30 units/acre mixed-use medium intensity) with MUM (Mixed-Use Medium Intensity, 12-30 units per acre) land use. To the north of the site is Main Street Chevrolet, a new and used car dealership with BA (Automotive-oriented business district) zoning and C (Commercial) land use. To the south and west of the property is a community shopping center with MU-2 zoning and MUM land use. East of the property across North Main Street is Bush Gator Transmission and The Florida Buffet, also with MU-2 zoning and MUM land use.

The request of this petition is to change the land use from MUM to C. This change is requested in order to allow for the development of services related to and compatible with adjacent BA zoning uses, on the subject property.

The property is located in an area identified as a Superfund site. Any development on the site will have to be approved by the United States Environmental Protection Agency, the Florida Department of Environmental Protection and any agency having regulatory authority over the site. All issues related to contamination, Wellfield protection and health and safety are addressed at the development review stage.

The subject property is adjacent to a community shopping center and a large automobile dealership. The general character of the properties in the area is commercial, much of which is automotive oriented. There is property with commercial land use to the north and south of the

subject property along North Main Street. There are no nearby residential areas or other incompatible land uses adjacent to the property to be impacted by this proposed land use change. None of the adjacent uses will be negatively impacted by this proposal. This proposal does promote urban infill.

The Plan Board voted to recommend approval of this petition. This proposal is consistent with the goals, objectives and policies of the Future Land Use Element as listed in the staff report, and policy 4.2.5, which restricts auto sales and service to North Main Street, north of 16th Avenue.

Public notice was published in the Gainesville Sun on November 4, 2003. Letters were mailed to surrounding property owners on November 5, 2003. The Plan Board held a public hearing November 20, 2003. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board recommended that the City Commission approve Petition 157LUC-03. Plan Board vote 5-1.

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The proposed amendment to the Comprehensive Plan is treated as a small scale development activity. After the City Commission adopts the ordinance, it will be filed with the State Land Planning Agency. The state land planning agency does not review or issue a notice of intent for small scale development amendments. Any affected person may file a petition with the State Division of Administrative Hearings to request a hearing to challenge the compliance of a small scale development amendment within 30 days following the City's adoption of the amendment.

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

Prepared and
submitted by:



Marion J. Radson, City Attorney

MJR/afm

Attachment

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12/15/03

ORDINANCE NO. _____
0-04-15

An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Map; by changing the land use category of certain property from "Mixed-Use Medium-Intensity (12-30 units per acre)" to "Commercial"; located in the vicinity of the 2500 block of North Main Street; providing a severability clause; providing a repealing clause; and providing an effective date.

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WHEREAS, publication of notice of a public hearing was given that the Future Land Use Map be amended by changing the land use category of certain properties from "Mixed-Use Medium-Intensity (12-30 units per acre)" to "Commercial"; and

WHEREAS, notice by the Plan Board was given and publication made as required by law and a public hearing was held by the City Plan Board on November 20, 2003; and

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

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

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1 and of a Public Hearing in the City Commission meeting room, First Floor, City Hall in the City of
2 Gainesville; and

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

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

9 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
10 **CITY OF GAINESVILLE, FLORIDA:**

11 **Section 1. The Future Land Use Map of the City of Gainesville 2000-2010 Comprehensive**
12 **Plan is amended by changing the land use category of the following described property from**
13 **"Mixed-Use Medium-Intensity (12-30 units per acre)" to "Commercial":**

14 **See legal description attached hereto as Exhibit "A", and made a part**
15 **hereof as if set forth in full.**

16
17 **Section 2. The City Manager is authorized and directed to make the necessary changes in**
18 **maps and other data in the City of Gainesville 2000-2010 Comprehensive Plan, or element, or**
19 **portion thereof in order to comply with this ordinance.**

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

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

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

14 **PASSED AND ADOPTED** this _____ day of _____, 2004.

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THOMAS D. BUSSING, MAYOR

APPROVED AS TO FORM AND LEGALITY:

ATTEST:

KURT LANNON,

MARION J. RADSON, CITY ATTORNEY

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1 **CLERK OF THE COMMISSION**

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3 **This ordinance passed this 12th day of April, 2004.**

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