

**CITY OF GAINESVILLE**  
Office of the City Attorney

**Memorandum**

334-5011/Fax 334-2229

Box No. 46

TO: Mayor and City Commission

DATE: July 27, 1998

FROM: City Attorney

CITY ATTORNEY  
FIRST READING

SUBJECT: Ordinance No. 0-98-72, Petition No. 80LUC2-98PB

An Ordinance of the City of Gainesville amending the Future Land Use Element of the City of Gainesville 1991-2001 Comprehensive Plan; creating and adding Policy 2.4.12 to the Future Land Use Element; providing Conditions and Restrictions on certain property known as the Orton Trust; located in the vicinity of 2414 N.W. 31st Avenue; providing a severability clause; providing a repealing clause; and providing an effective date.

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Recommendation: The City Commission adopt the proposed ordinance on first reading and transmit the ordinance to the Florida Department of Community Affairs for written comment.

The above-referenced ordinance has been prepared pursuant to City Commission action requesting the City Attorney's Office to prepare the appropriate ordinance amending the City of Gainesville 1991-2001 Comprehensive Plan.

The proposed amendment to the Comprehensive Plan will be transmitted to the State Department of Community of Affairs for written comment. Any comments, recommendations or objections of the State Department of Community Affairs must be considered at the second public hearing. The City Commission may then adopt or adopt with changes the proposed amendment to the Comprehensive Plan, or determine not to adopt a plan amendment.

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.

The Plan amendment will not become effective until the State Department of Community Affairs issues a final order determining the adopted amendment to be in compliance in

accordance with the Local Government Comprehensive Planning and Land Development Regulation Act, or until the Administration Commission (Governor and Cabinet) issues a final order determining the adopted amendment to be in compliance.

Prepared and submitted by:

  
\_\_\_\_\_  
Marion J. Radson  
City Attorney

80LUC2.CVR

ORDINANCE NO. \_\_\_\_\_  
0-98-72

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3  
4       **An Ordinance of the City of Gainesville amending the Future Land Use**  
5       **Element of the City of Gainesville 1991-2001 Comprehensive Plan;**  
6       **creating and adding Policy 2.4.12 to the Future Land Use Element;**  
7       **providing Conditions and Restrictions on certain property known as the**  
8       **Orton Trust; located in the vicinity of 2414 N.W. 31st Avenue;**  
9       **providing a severability clause; providing a repealing clause; and**  
10       **providing an effective date.**

11       **WHEREAS,** the City Plan Board authorized the publication of  
12 notice of a Public Hearing that the text of the Future Land Use  
13 Element of the City of Gainesville 1991-2001 Comprehensive Plan  
14 be amended; and

15       **WHEREAS,** notice by the Plan Board was given and  
16 publication made as required by law and a public hearing was held  
17 by the City Plan Board on May 21, 1998; and

18       **WHEREAS,** notice was given and publication made of a public  
19 hearing which was held by the City Commission on June 8, 1998;  
20 and

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

28       **WHEREAS,** pursuant to law, after the public hearing at the

Words underlined are additions.

1 transmittal stage, the City of Gainesville transmitted copies of  
2 this proposed change to the State Land Planning Agency; and

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

8 **WHEREAS**, Public Hearings were held pursuant to the  
9 published and mailed notices described above at which hearings  
10 the parties in interest and all others had an opportunity to be  
11 and were, in fact, heard; and

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

15 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF**  
16 **THE CITY OF GAINESVILLE, FLORIDA:**

17 **Section 1.** The Future Land Use Element of the City of  
18 Gainesville 1991-2001 Comprehensive Plan is amended by creating  
19 and adding Policy 2.4.12 to the Future Land Use Element, to read  
20 as follows:

21 GOAL 2

22 THE LAND USE ELEMENT SHALL FOSTER THE UNIQUE CHARACTER OF THE  
23 CITY BY DIRECTING GROWTH AND REDEVELOPMENT IN A MANNER THAT USES  
24 ACTIVITY CENTERS TO PROVIDE GOODS AND SERVICES TO CITY RESIDENTS;

Words underlined are additions.

1 PROTECTS VIABLE, STABLE NEIGHBORHOODS; DISTRIBUTES GROWTH AND  
2 ECONOMIC ACTIVITY THROUGHOUT THE CITY IN KEEPING WITH THE  
3 DIRECTION OF THIS ELEMENT; PRESERVES QUALITY OPEN SPACE AND  
4 PRESERVES THE TREE CANOPY OF THE CITY. THE LAND USE ELEMENT  
5 SHALL PROMOTE STATEWIDE GOALS FOR COMPACT DEVELOPMENT AND  
6 EFFICIENT USE OF INFRASTRUCTURE.

7 Objective 2.4

8 Redevelopment shall be encouraged to promote urban infill,  
9 improve the condition of blighted areas, to reduce urban sprawl  
10 and foster compact development patterns.

11 2.4.12 The Orton Trust Planned Use District shall consist of a  
12 mix of residential and non-residential uses under the  
13 following conditions and restrictions:

14 a. A planned development zoning ordinance consistent with  
15 the planned use district must be adopted by the City  
16 Commission within one year of the effective date of the  
17 land use change. If the aforesaid zoning ordinance is  
18 not adopted within the one year period, then the  
19 overlay district shall be null and void and of no  
20 further force and effect and the Future Land Use Map  
21 shall be amended accordingly to the appropriate land  
22 use category upon proper notice. The planned  
23 development zoning ordinance shall specify allowable  
24 uses and design standards consistent with traditional

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1           neighborhood design principles.

2           b. The overall residential density must meet a minimum of  
3           six units per acre and a maximum of eight units per  
4           acre. The residential density shall be no greater than  
5           eight units per acre in single-family detached  
6           residential dwellings along Northwest 31st Avenue.

7           c. No non-residential activity, with the exception of  
8           places of religious assembly or private schools, shall  
9           be allowed along Northwest 31st Avenue or within 500  
10           linear feet north of the frontage of Northwest 31st  
11           Avenue.

12           d. A maximum of 80,000 square feet of non-residential use,  
13           including retail/commercial, eating places, office,  
14           civic, schools, day care centers, and places of  
15           religious assembly shall be allowed. A maximum of 600  
16           feet of the Northwest 39th Avenue frontage shall be  
17           used for non-residential uses. The total allowable  
18           retail/commercial uses shall not exceed 40,000 square  
19           feet. Retail/commercial uses shall be as defined by  
20           the 1987 Standard Industrial Classification Manual  
21           major groups 52 thru 57 inclusive, 59; and 70 thru 79  
22           inclusive. All non-residential uses on the perimeter  
23           of the planned use district shall be adequately  
24           buffered from surrounding residential uses through the

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1           use of greenspace, fences, or walls. The buffer widths  
2           shall be established in the planned development zoning  
3           ordinance.

4           e. A minimum of 40,000 square feet of residential use  
5           shall be required above the first or second story of  
6           non-residential uses, and may be placed above the first  
7           or second story of any part of the 80,000 square feet  
8           of non-residential use authorized by this planned use  
9           district.

10          f. The maximum allowable square footage for any one-story  
11          retail/commercial building where the entire building is  
12          in a single use is 15,000 square feet.

13          g. A maximum of two businesses shall be allowed to have  
14          drive-through facilities. The drive-through facilities  
15          may only be used for a pharmacy and a financial  
16          institution. A maximum of four drive-through lanes  
17          shall be allowed and no more than three lanes shall be  
18          allowed for any single use. The planned development  
19          zoning ordinance shall require that any drive-through  
20          facility shall be designed to maximize pedestrian  
21          safety and convenience and shall establish design  
22          standards that ensure that drive-through facilities do  
23          not adversely affect the quality of the public realm or  
24          urban character of the area. Drive through facilities

Words underlined are additions.

1           can only be located within 300 feet of the Northwest  
2           39th Avenue frontage.

3           h. A minimum of eight acres shall be provided in common  
4           open space for conservation and recreation.

5           i. The planned development zoning ordinance shall  
6           prescribe a phasing schedule in order to ensure a  
7           mixed-use project including residential and/or  
8           residential infrastructure from the first phase of  
9           construction.

10          j. The planned development zoning ordinance shall provide  
11          a uniform signage plan for the planned use district.

12          k. All wetland areas must be identified by the appropriate  
13          water management district before any final development  
14          orders will be issued. The removal, fill or  
15          disturbance of wetlands shall be in accordance with the  
16          requirements of the St. Johns River Water Management  
17          District and the City's Comprehensive Plan. All  
18          development on the site shall be consistent with  
19          Article VIII, Environmental Management, of the City's  
20          Land Development Code.

21          l. A master stormwater management plan shall be prepared  
22          and approved by the City's Public Works Department for  
23          the entire planned use district prior to the issuance  
24          of any final development orders.

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1        m. A maximum of two access roadways shall be allowed onto  
2        Northwest 39th Avenue. A maximum of two access  
3        roadways shall be allowed onto Northwest 31st Avenue.  
4        No direct driveway access connections are allowed from  
5        either Northwest 39th Avenue or Northwest 31st Avenue.  
6        n. The internal road network shall be designed using  
7        Traditional Neighborhood Development Street Design  
8        Guidelines as published by the Institute of  
9        Transportation Engineers, as updated from time to time.  
10       The developer shall construct vehicular connections to  
11       the adjacent Palm Grove Subdivision, Phases I and II on  
12       the west side of the proposed planned use district, so  
13       that the connections align with the connections shown  
14       on the Palm Grove Phase I and II subdivision plats.  
15       o. Except as may be established and shown for good cause  
16       by the owner/developer and then provided in the planned  
17       development zoning ordinance, all sidewalks shall be  
18       five-foot minimum in width. A pedestrian network  
19       consisting of sidewalks shall be provided on all  
20       internal streets. Sidewalk connections shall be made  
21       from the internal sidewalk system to the public  
22       sidewalk. All retail/commercial uses shall be  
23       interconnected by safe pedestrian/bicycle connections.  
24       Each use along the Northwest 39th Avenue frontage shall

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1           have a sidewalk connection to the public sidewalk.

2           p. The planned use district shall maximize cross-access  
3           vehicle and pedestrian/bicycle connections between uses  
4           and shall maximize pedestrian safety and comfort.

5           g. A traffic study shall be provided by the  
6           owner/developer as part of the application for the  
7           planned development rezoning in order to determine trip  
8           generation and trip distribution to and from the  
9           development for the purpose of concurrency.

10          r. The owner/developer shall construct and transfer to the  
11          City of Gainesville a bus shelter located on the  
12          Northwest 39th Avenue frontage or an alternative  
13          location approved within the planned development zoning  
14          ordinance as part of the first phase of development.

15          s. The planned use district land use category does not  
16          vest the development for concurrency. The  
17          owner/developer is required to apply for and meet  
18          concurrency management certification requirements,  
19          including transportation mitigation if necessary, at  
20          the time of application for planned development  
21          rezoning.

22          **Section 2.** If any section, sentence, clause or phrase of this  
23 ordinance is held to be invalid or unconstitutional by any court  
24 of competent jurisdiction, then said holding shall in no way

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1 affect the validity of the remaining portions of this ordinance.

2 **Section 3.** All ordinances, or parts of ordinances, in  
3 conflict herewith are to the extent of such conflict hereby  
4 repealed.

5 **Section 4.** This ordinance shall become effective immediately  
6 upon passage on second reading; however, the effective date of  
7 this plan amendment shall be the date a final order is issued by  
8 the Department of Community Affairs finding the amendment to be  
9 in compliance in accordance with Chapter 163.3184, F.S.; or the  
10 date a final order is issued by the Administration Commission  
11 finding the amendment to be in compliance in accordance with  
12 Chapter 163.3184, F.S.

13 **PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_,  
14 1998.

\_\_\_\_\_  
MAYOR

15  
16  
17  
18 ATTEST:

APPROVED AS TO FORM AND LEGALITY:

19  
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22  
23  
24 \_\_\_\_\_  
25 KURT LANNON,  
26 CLERK OF THE COMMISSION

\_\_\_\_\_  
MARION J. RADSON, CITY ATTORNEY

27  
28 This ordinance passed on first reading this \_\_\_\_\_ day of  
29 \_\_\_\_\_, 1998.

30  
31 This ordinance passed on second reading this \_\_\_\_\_ day of  
32 \_\_\_\_\_, 1998.

33  
34 MJR/afm

Words underlined are additions.

