

MEMORANDUM

Office of the City Attorney

LEGISLATIVE ITEM NO. 041056

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

TO: Mayor and City Commission

DATE: July 11, 2005

FROM: City Attorney

CITY ATTORNEY
ADOPTION READING

SUBJECT: Ordinance No. 0-05-62, Petition 31ZON-05PB

An ordinance of the City of Gainesville, Florida, amending the Zoning Map Atlas and rezoning certain property annexed into the City from the Alachua County zoning category of "BP, business and professional" to the City of Gainesville zoning category of "OF: General office district"; located in the vicinity of 3814 N.W. 43rd Street; providing a severability clause; providing a repealing clause; and providing an effective date.

Recommendation: The City Commission: 1) approve Petition 31ZON-05PB; and 2) adopt the proposed ordinance.

STAFF REPORT

This petition was originally submitted for Plan Board recommendation at the March 17, 2005 Plan Board meeting. The Plan Board voted to continue this petition pending further analysis of the proposal for the property adjacent and west of the subject property. Since the March 17th meeting, the owner of this adjacent property has agreed to submit a separate petition for a city zoning designation for the property. Therefore, this petition is being re-submitted to only address the property at 3814 Northwest 43rd Street.

The subject property is 0.95 acres in size. The parcel is currently developed as a Sun Trust Bank. It was annexed into the city in 2004. This property must be brought into conformance with the City's land development regulations. This requires amending the City's zoning map atlas to include this property. This petition would amend the City's zoning map atlas.

Planned Development/Office (PD/OF) zoning is east of the properties. County multi-family residential (R-2) zoning is adjacent and developed to the north. County Business Professional (BP) zoning is adjacent and developed as offices to the south. County Business Professional (BP) zoning is adjacent and vacant to the west.

The character of the nearby property is largely suburban office and medium-density residential. Because the character of nearby properties is compatible, this property is most suitably given an Office zoning. The OF (General Office District) allows banking facilities as a use by right.

The Plan Board heard the petition and recommended that it be approved.

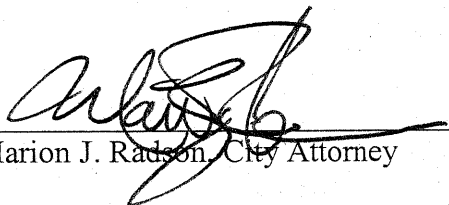
Public notice was published in the Gainesville Sun on May 3, 2005. Letters were mailed to surrounding property owners on May 4, 2005. The Plan Board held a public hearing May 19, 2005. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board recommended that the City Commission approve Petition 31ZON-05 PB Plan Board vote 6-0.

CITY ATTORNEY MEMORANDUM

The petition and ordinance are simultaneously submitted to the City Commission for approval and adoption because city staff and the plan board both recommend approval.

This ordinance shall become effective immediately upon final adoption; however, the rezoning shall not become effective until the amendment to the City of Gainesville 2000-2010 Comprehensive Plan adopted by Ordinance No. 041055 is effective as provided therein.

Prepared and
submitted by:



Marion J. Radson, City Attorney

MJR/afm
Attachment

H:\Marion Radson\Planning\31ZON CVR.doc

D R A F T

5/27/2005

ORDINANCE NO. _____
0-05-62

1
2
3
4 **An ordinance of the City of Gainesville, Florida, amending the Zoning**
5 **Map Atlas and rezoning certain property annexed into the City from**
6 **the Alachua County zoning category of “BP, business and**
7 **professional” to the City of Gainesville zoning category of “OF:**
8 **General office district”; located in the vicinity of 3814 N.W. 43rd**
9 **Street; providing a severability clause; providing a repealing clause;**
10 **and providing an effective date.**

11
12
13 **WHEREAS**, publication of notice of a public hearing was given that the Zoning Map
14 Atlas be amended by rezoning certain property annexed into the City from the Alachua County
15 zoning category of “BP, business and professional” to the City of Gainesville zoning category of
16 “OF: General office district”; and

17 **WHEREAS**, notice was given and publication made as required by law and a public
18 hearing was held by the City Plan Board on May 19, 2005; and

19 **WHEREAS**, the City Commission finds that the rezoning of the property described
20 herein will be consistent with the City of Gainesville 2000-2010 Comprehensive Plan upon the
21 adoption of City of Gainesville Ordinance No. 041055; and

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

26 **WHEREAS**, pursuant to law, notice has also been given by mail to the owner whose

D R A F T

5/27/2005

1 property will be regulated by the adoption of this Ordinance, at least thirty days prior to the date
2 set for a public hearing on this ordinance; and

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

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

8 **Section 1.** The Zoning Map Atlas of the City of Gainesville is amended by rezoning
9 certain property annexed into the City from the Alachua County zoning category of "BP,
10 business and professional" to the City of Gainesville zoning category of "OF: General office
11 district":

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

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

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

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

21 **Section 5.** This ordinance shall become effective immediately upon final adoption;
22 however, the rezoning shall not become effective until the amendment to the City of Gainesville

D R A F T

5/27/2005

1 2000-2010 Comprehensive Plan adopted by Ordinance No. 041055 is effective as provided
2 therein.

3 **PASSED AND ADOPTED** this ____ day of ____, 2005.

4
5
6 _____
7 PEGEEN HANRAHAN, MAYOR

8 ATTEST: Approved as to form and legality:
9

10
11
12 _____ By: _____
13 KURT LANNON, MARION J. RADSON, CITY ATTORNEY
14 CLERK OF THE COMMISSION

15
16
17 This ordinance passed this ____ day of ____, 2005.
18

19 H:\Marion Radson\Planning\31zon-05PB pet.DOC

Petition 31ZON-05 PB

DESCRIPTION FOR SUN BANK PROPERTY AT THE NORTHWEST CORNER OF
NW 39TH AVENUE AND 43RD STREET

TAX PARCEL #6111-001-000 (TAKEN FROM OFFICIAL RECORDS BOOK 1453,
PAGE 76)

THE NORTH 295 FEET OF THE EAST 243 FEET OF LOT ONE (1) OF A
SUBDIVISION OF SECTION 27, TOWNSHIP 9 SOUTH, RANGE 19 EAST, AS
RECORDED IN PLAT BOOK "A", PAGE 55, OF THE PUBLIC RECORDS OF
ALACHUA COUNTY, FLORIDA, LESS RIGHTS-OF-WAY FOR N.W. 39TH
AVENUE AND N.W. 43RD STREET.

City of Gainesville

Inter-Office Communication

**Planning Division
X5022, FAX x2282, Station 11**

Item No. 12

Date: May 19, 2005

To: City Plan Board

From: Planning Division Staff

Subject: Petition 31ZON-05 PB. City of Gainesville. Rezone property from Alachua County BP (Business Professional) to City of Gainesville OF (General office district). Located at 3814 Northwest 43rd Street. Related to Petition 30LUC-05 PB.

Recommendation

Staff recommends approval of Petition 31ZON-05 PB.

Explanation

This petition was originally submitted for Plan Board recommendation at the March 17, 2005 Plan Board meeting. The Plan Board voted to continue this petition pending further analysis of the proposal for the property adjacent and west of the subject property. Since the March 17th meeting, the owner of this adjacent property has agreed to submit a separate petition for a city zoning designation for the property. Therefore, this petition is being re-submitted to only address the property at 3814 Northwest 43rd Street.

The subject property is 0.95 acres in size. The parcel is currently developed as a Sun Trust Bank. It was annexed into the city in 2004. This property must be brought into conformance with the City's land development regulations. This requires amending the City's zoning map atlas to include this property. This petition would amend the City's zoning map atlas.

Planned Development/Office (PD/OF) zoning is east of the properties. County multi-family residential (R-2) zoning is adjacent and developed to the north. County Business Professional (BP) zoning is adjacent and developed as offices to the south. County Business Professional (BP) zoning is adjacent and vacant to the west.

The character of the nearby property is largely suburban office and medium-density residential. Because the character of nearby properties is compatible, this property is most suitably given an Office zoning. The OF (General Office District) allows banking facilities as a use by right.

Character of the District and Suitability

OF zoning is suitable for nearby office and multi-family property designations.

Conservation of the Value of Buildings and Encouraging Appropriate Uses

Office uses are appropriate in this location.

Applicable Portions of Current City Plans

There are no City plans for this area.

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

The City finds that it is beneficial to annex non-residential land at its perimeter.

Whether there have been Substantial Changes in the Character or Development of Areas In or Near Area Under Consideration

NW 43rd Street was widened to 5 lanes in the early 1990s. This widening was followed by the construction of a large amount of office development along the corridor—including properties associated with the 43rd Street and 39th Avenue intersection.

Applicable Policies from the Gainesville Comprehensive Plan:

Future Land Use Element

Policy 4.1.1 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. Residential uses in office districts shall be designed as new in-town development, mixed use, live-work, compound use or shall accommodate existing residential development within the district. Densities shall not exceed 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. Intensity will be controlled by adopting land development regulations that establish height limits of 5 stories or less, that require buildings to face the street, and modest build-to lines, instead of a maximum floor area ratio.

Objective 4.2

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 4.2.1 The City shall adopt land development regulations that provide protection for adjacent residential areas and low intensity uses from the impacts of high intensity uses by separating intense uses from low-intensity uses by transitional uses and by performance measures. Performance measures shall address the buffering of adjacent uses by landscape, building type and site design. Regulation of building type shall insure compatibility of building scale, and overall building appearance in selected areas. Regulation of site design shall address orientation. Such regulation shall also include arrangement of functions within a site, such as parking, loading, waste disposal, access points, outdoor uses and mechanical equipment; and the preservation of site characteristics such as topography, natural features and tree canopy.

Policy 4.2.2 The City shall adopt land development regulations that encourage better access between residential neighborhoods and adjacent neighborhood centers through the use of street design and the use of pedestrian, bicycle and transit modifications.

Policy 4.2.4 The existence of non-residential uses on one or more corners of an intersection will not justify approval of the development of all corners with the same or similar use, nor does the existence of non-residential uses on a major arterial street dictate that all frontage must be similarly used.

Objective 4.4

Newly annexed lands shall retain land uses as designated by Alachua County until the Future Land Use Element of this Plan is amended.

Policy 4.4.1 Land use amendments shall be prepared for all annexed properties within one year of annexation.

Policy 4.4.2 Alachua County LOS standards shall apply until newly annexed lands are given land use designations in this Plan.

Impact on Affordable Housing

This application will have no impact on affordable housing.

Applicant Information

City of Gainesville

Request Amend the zoning of the property from Alachua County Business Professional to OF (Office).

Existing Land Use Plan Classification Alachua County Commercial.

Existing Zoning Alachua County Business Professional.

Purpose of Request Property was recently annexed by the City and must be given City zoning designation in order to apply the provisions of the Gainesville Land Development Code.

Location SW corner of NW 39th Avenue and NW 43rd Street.

Size 0.95 acres.

Existing Use Bank

Surrounding Land Uses

North Residential

South Offices

East Bank (office)

West Vacant

Surrounding Controls

	Existing Zoning	Existing Land Use
East	PD/O (Planned Development/Office)	PUD (Planned Unit Development)
South	Business Professional & Administrative/Professional (county)	Commercial (county)
West	Business Professional (county)	Commercial (county)
North	R-2 Multi-Family Residential (county)	Medium-High Density Residential (county)

City Plan Board
Petition 31ZON-05 PB
May 19, 2005

Summary

The proposed land use change is consistent with the 2000-2010 Gainesville Comprehensive Plan, and is recommended for approval.

Respectfully submitted,



Ralph Hilliard
Planning Manager

RW:DM:DN

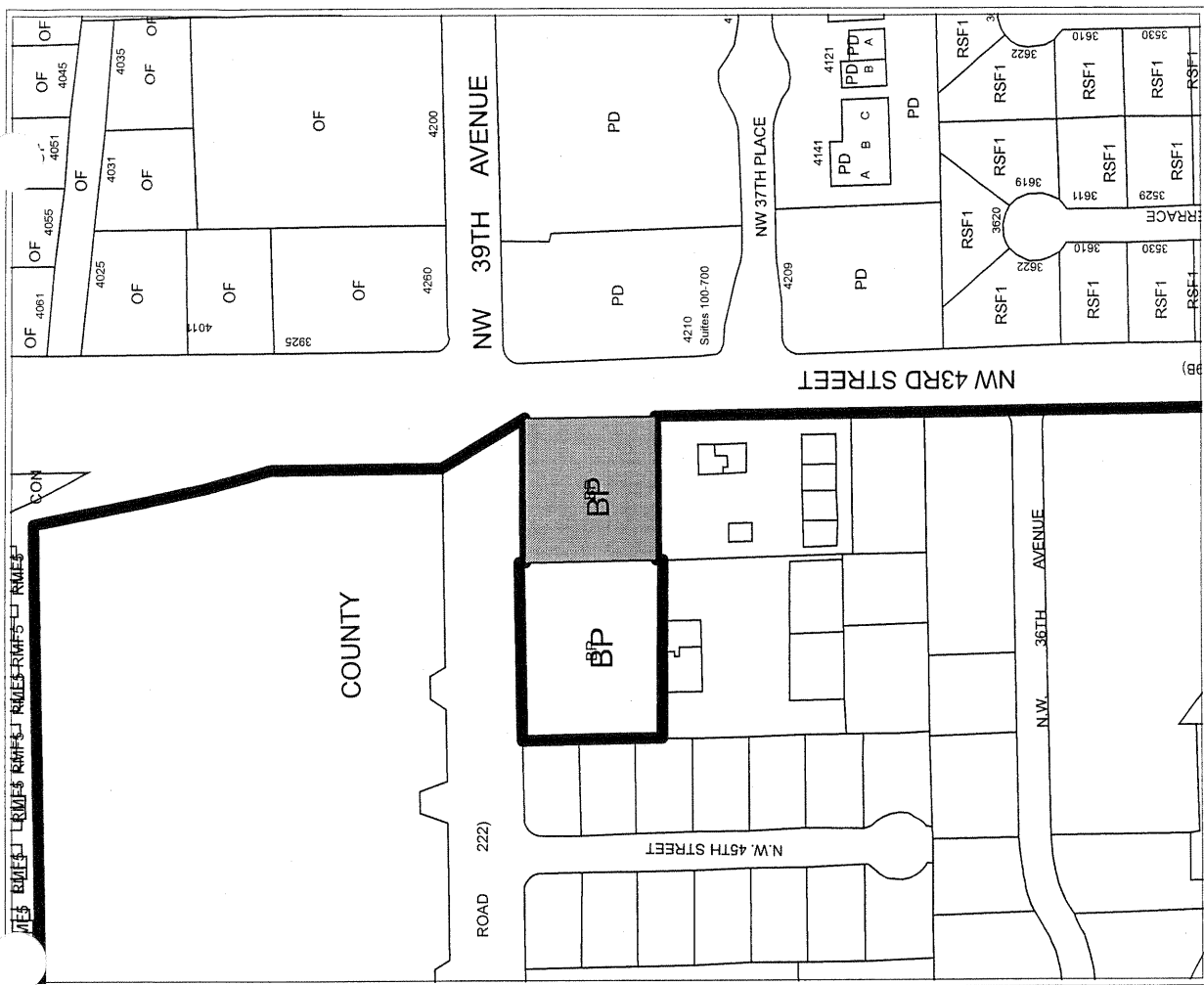
Attachment

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 Residential Low Density (12 du/acre)
- RC Residential Conservation (12 du/acre)
- MH Mobile Home Residential (12 du/acre)
- RMF6 Multiple-Family Medium Density Residential (8-15 du/acre)
- RMF7 Multiple-Family Medium Density Residential (8-21 du/acre)
- RMF8 Multiple-Family Medium Density Residential (8-30 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 (up to 20 du/acre)
- OF General Office
- PD Planned Development
- BUS General Business
- BA Automotive-Oriented Business
- BT Tourist-Oriented Business
- MU1 Mixed Use Low Intensity (10-30 du/acre)
- MU2 Mixed Use Medium Intensity (14-30 du/acre)
- CCD Central City District
- W Warehousing and Wholesaling
- I1 Limited Industrial
- I2 General Industrial
- AGR Agriculture
- CON Conservation
- MD Medical Services
- PS Public Services and Operations
- AF Airport Facility
- ED Educational Services
- CP Corporate Park

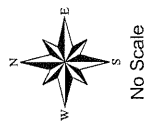
- Historic Preservation/Conservation District
- Special Area Plan
- Division line between two zoning districts
- City Limits

Area under petition consideration



EXISTING ZONING

Name	Petition Request	Map(s)	Petition Number
City of Gainesville	From BP (Business Professional Alachua County) to OF	3543	31ZON-05PB



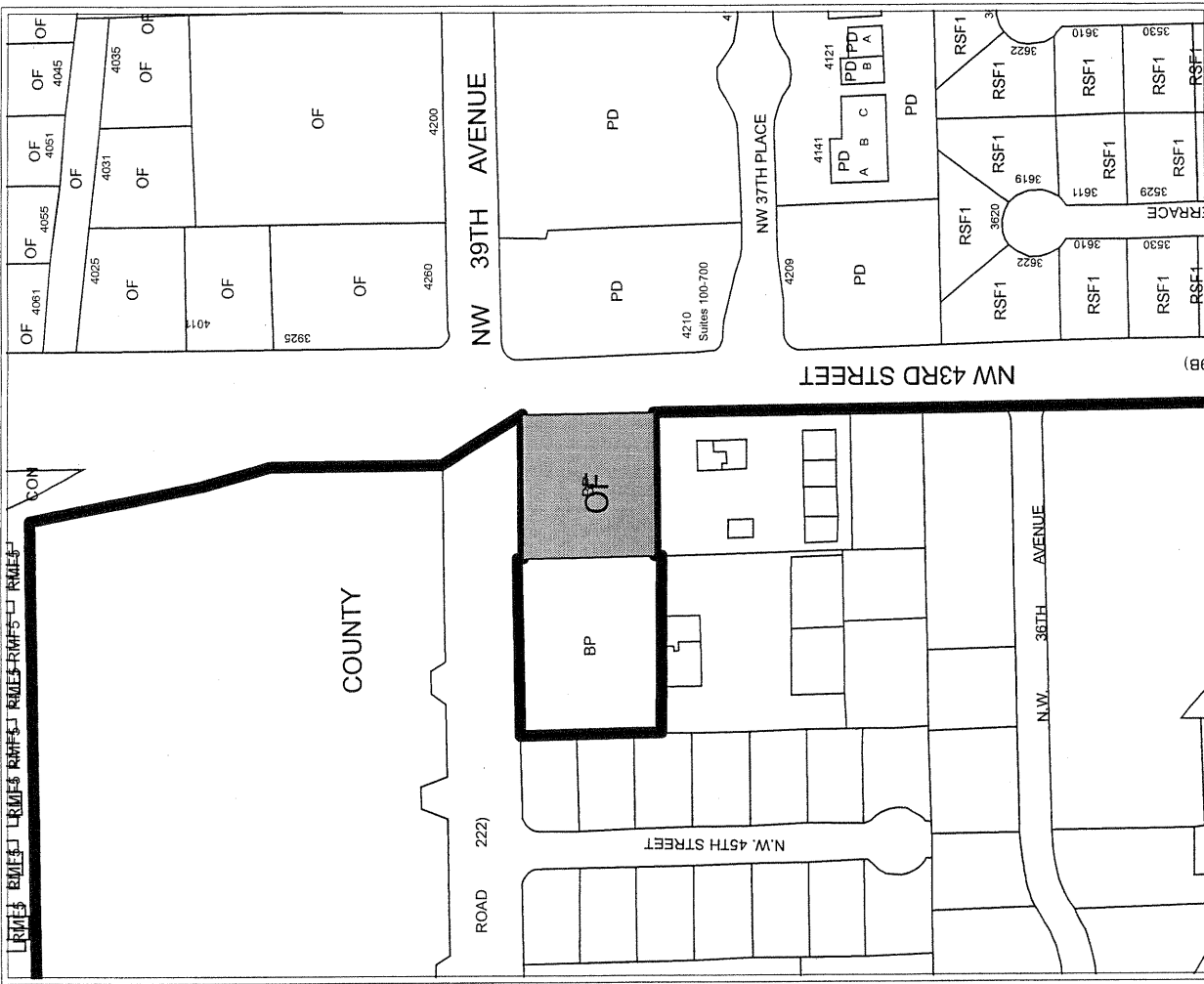
No Scale

Zoning Districts

- RSF1 Single-Family Residential (3.5 du/acre)
- RSF2 Single-Family Residential (4.6 du/acre)
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- RMF7 Multiple-Family Medium Density Residential (8-21 du/acre)
- RMF8 Multiple-Family Medium Density Residential (8-30 du/acre)
- RMU Residential Medium Density Residential (up to 75 du/acre)
- RH1 Residential High Density (8-43 du/acre)
- RH2 Residential High Density (8-100 du/acre)
- OR Office Residential (up to 20 du/acre)
- OF General Office
- PD Planned Development
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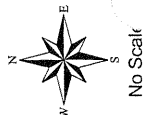
- Historic Preservation/Conservation District
- Special Area Plan
- Division line between two zoning districts
- City Limits

Area under petition consideration



PROPOSED ZONING

Name	Petition Request	Map(s)	Petition Number
City of Gainesville	From BP (Business Professional Alachua County) to OF	3543	31ZON-05PB



2. **Petition 31ZON-05 PB** City of Gainesville. Rezone property from Alachua County BP (Business Professional) to City of Gainesville OF (General office district). Located at 3814 Northwest 43rd Street. Related to Petition 30LUC-05 PB.

Discussed with Petition 30LUC-05 PB.

<u>Motion By:</u> Mr. Rwebyogo	<u>Seconded By:</u> Mr. Gold
<u>Moved to:</u> Approve Petition 31ZON-05 PB.	<u>Upon Vote:</u> Motion Carried 6 – 0 Ayes: Cohen, Gold, Rwebyogo, Reiskind, Tecler, Cole

0001

LEGALS

**ADVERTISEMENT
NOTICE OF PROPOSED
ENACTMENT OF ORDINANCE**

BY CITY COMMISSION,
GAINESVILLE, FLORIDA

Notice is hereby given that the proposed ordinance, whose title appears below will be considered for Adoption Reading on the 11th day of July, 2005, at the City Commission meeting. The meetings begin at 6:00p.m. and the ordinances will be read as soon thereafter as may be heard. The meetings are held in the City Commission Auditorium, on the First Floor of City Hall, 200 East University Avenue, Gainesville, Florida. A copy of said ordinance may be inspected by any member of the public at the office of the Clerk of the Commission on the First Floor of City Hall during regular business hours located at 200 East University Avenue, Gainesville, Florida, and at the Public Library, Main Branch, located at 401 East University Avenue. On the dates mentioned above, all interested parties may appear at the meeting and be heard with respect to the proposed ordinance. Persons with disabilities, who require assistance to participate in the meetings, are requested to notify the Equal Opportunity Office at 334-5051 or call the TDD phone line at least 2 business days in advance.

**ORDINANCE TITLE
ORDINANCE NO. 041056
0-05-62**

An ordinance of the City of Gainesville, Florida, amending the Zoning Map Atlas and rezoning certain property annexed into the City from the Alachua County zoning category of "BP, business and professional" to the City of Gainesville zoning category of "OF, General office district", located in the vicinity of 3814 N.W. 43rd Street; providing a severability clause; providing a repealing clause; and providing an effective date.

Note: "All persons are advised that, if any person decides to appeal any decision made at any of these meetings, they will need a record of the proceedings and, for such purpose, they need to ensure that a verbatim record or the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based."

July 1, 2005

Publish Date

Clerk of the Commission

27634, 7/1/05
#A000012441