



MEMORANDUM

Office of the City Attorney

LEGISLATIVE ITEM NO. 040656

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

TO: Mayor and City Commission

DATE: May 9, 2005

FROM: City Attorney

ADOPTION READING

SUBJECT: **Ordinance No. 0-05-33, Petition 160LUC-04PB**

An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Map; by overlaying the land use category of "Planned Use District" on certain property with the underlying land use categories of "Mixed-Use Low-Intensity (8-30 units per acre)" and "Mixed-Use Residential (up to 75 units per acre)"; located between West University Avenue on the South, Northwest 3rd Avenue on the North, Northwest 13th Street (US 441) on the East and Northwest 14th Street on the West; providing conditions; providing a severability clause; providing a repealing clause; and providing an effective date.

Recommendation: The City Commission adopt the proposed ordinance.

STAFF REPORT

The purpose and intent of this project is to construct a 650,000± sq. ft. mixed-use development containing a combination of commercial, office, residential and a place of religious assembly on approximately 4.4 acres of land located between West University Avenue and Northwest 3rd Avenue and between Northwest 13th Street (US 441) and Northwest 14th Street. The project shall also consist of both an underground and above ground parking structure for approximately 1,300 spaces having a maximum square footage of 450,000 square feet. The redevelopment of this property will allow for the petitioner to provide increased commercial and personal services for the existing and future neighborhood residents as well as University of Florida students and staff. This will assist in reducing the dependency on the use of the automobile as a primary mode of transportation, in the area, by encouraging transit, bicycle and pedestrian modes of transportation by maximizing non-vehicular oriented development within University Corners, located at the intersection of West University and Northwest 13th Street (US 441).

The redevelopment of the three University Corners blocks will provide additional commercial (including hotel staff), offices, and other job opportunities as well as add much needed residential density (requesting 400 dwelling units maximum - 91 du/ac with 346 dwellings currently proposed-78 du/ac) to this existing activity center area. In addition to the commercial mixed-use development being proposed, the petitioner is also proposing to rebuild the University United Methodist Church at its present location at the corner of West University and Northwest

14th Street. Although the entire project is being constructed as one, the new church will be built on its own tax parcel, having its own specific property lines.

The proposed land use change is consistent with the City of Gainesville 2000-2010 Comprehensive Land Use Plan in numerous ways. Perhaps one of the most significant accomplishments of this proposed development is that the petitioner will be redeveloping an underdeveloped and arguably one of the busiest, most important intersections in the City of Gainesville, near the University of Florida.

The petitioner has met with the College Park and surrounding neighborhood/s on numerous occasions to discuss the project and hear comments and concerns related to the proposed development. It is planning staff's understanding that the petitioner has gained the support from most of the neighbors in question.

Public notice was published in the Gainesville Sun on November 2, 2004. Letters were mailed to surrounding property owners on November 3, 2004. The Plan Board held a public hearing November 18, 2004.

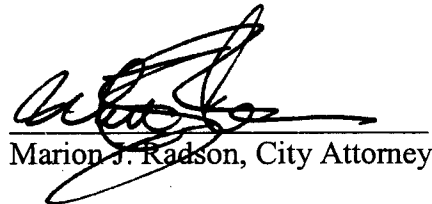
CITY ATTORNEY MEMORANDUM

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.

The City Commission, at its meeting of December 13, 2004, approved the petition and authorized the City Attorney to draft the proposed ordinance the land use change.

Prepared and
submitted by:


Marion J. Radson, City Attorney

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ORDINANCE NO. _____
0-05-33

An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Map; by overlaying the land use category of "Planned Use District" on certain property with the underlying land use categories of "Mixed-Use Low-Intensity (8-30 units per acre)" and "Mixed-Use Residential (up to 75 units per acre)"; located between West University Avenue on the South, Northwest 3rd Avenue on the North, Northwest 13th Street (US 441) on the East and Northwest 14th Street on the West; providing conditions; providing a severability clause; providing a repealing clause; and providing an effective date.

WHEREAS, publication of notice of a public hearing was given that the Future Land Use Map be amended by overlaying the land use category of "Planned Use District" on certain property with the underlying land use categories of "Mixed-Use Low-Intensity (8-30 units per acre)" and "Mixed-Use Residential (up to 75 units per acre)"; 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 18, 2004; and

WHEREAS, notice was given and publication made of a public hearing which was then held by the City Commission on December 13, 2004; 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,

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1 and any other person or entity who has requested a copy for their comments subsequent to the
2 passage of this ordinance; and

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

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

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

12 **Section 1.** The Future Land Use Map of the City of Gainesville 2000-2010 Comprehensive
13 Plan is amended by overlaying the "Planned Use District" category on the following described
14 property with the underlying Land Use Categories of "Mixed-Use Low-Intensity (8-30 units per
15 acre)" and "Mixed-Use Residential (up to 75 units per acre)", as shown on the map attached hereto
16 as Exhibit "A", and more specifically described in the legal description attached hereto as Exhibit
17 "B", and made a part hereof as if set forth in full.

18
19 **Section 2.** A planned development zoning ordinance is required to implement the overlay
20 Planned Use District Category, and must be adopted by the City Commission within 18 months of
21 the effective date of the land use designation as provided in Section 9 of this Ordinance.

1 **Section 3.** The planned use district category of the property described in Section 1 of this
2 ordinance is subject to the following terms, conditions and restrictions:

3 **Condition 1.** The uses permitted on the property shall be limited to commercial uses, general
4 office and medical office uses, residential dwelling units (condominium apartment and
5 condo/hotel), a place of religious assembly and both underground and above ground parking
6 structure/s.

7
8 **Condition 2.** Vehicular access to the property shall be limited to ingress and egress from
9 Northwest 14th Street, Northwest 3rd Avenue and Northwest 13th Street (US 441). Pedestrian and
10 bicycle traffic shall be able to access the site from sidewalks that surround the four sides of the
11 property. There shall be a system of plazas, arcades and sidewalks that will provide access to all
12 uses throughout the site.

13
14 **Condition 3.** The owner/developer shall provide custom-designed bus shelter/s at their mixed-
15 use development on either West University Avenue and also Northwest 13th Street (US 441), or
16 both, at a location/s coordinated with the City Manager through the RTS (Regional Transit
17 System) and the Gainesville Public Works Department.

18
19 **Condition 4.** Subject to approval of City's Public Works Department and the Florida
20 Department of Transportation, the owner/developer shall provide a vehicular drop-off bay along
21 Northwest 13th Street (US 441) that may be utilized by RTS (Regional Transit System) at a
22 location to be designated by the City Manager through the Regional Transit System and the
23 Public Works Department.

24
25 **Condition 5.** The maximum building square footage permitted for the commercial, office and
26 residential buildings shall not exceed in the aggregate 650,000 square feet.

27
28 **Condition 6.** The maximum square footage permitted for the parking garage shall not exceed in
29 the aggregate 450,000 square feet.

30
31 **Condition 7.** The maximum square footage for the place of religious assembly shall not exceed
32 in the aggregate 29,000 square feet.

33
34 **Condition 8.** The maximum number of residential dwelling units shall not exceed 400 units.
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1 **Condition 9.** Useable open space (open air plaza, open air arcades on the ground level, and open
2 air pool/rec. areas on multiple building levels) shall not be less than 35% of the site area, or
3 67,000 square feet.

4
5 **Condition 10.** The maximum building height permitted onsite shall be limited to 95 feet
6 measured from grade level to the top of the building plate.

7
8 **Condition 11.** The maximum building height of the parking garage located at north and west
9 property lines, shall be limited to 85 feet measured from grade level to the top of the 8-story
10 guard rail.

11
12 **Condition 12.** The maximum number of building stories allowed shall be limited to eight (8)
13 stories above grade level.

14
15 **Condition 13.** No commercial uses shall be permitted fronting Northwest 14th Street and
16 Northwest 3rd Avenue.

17
18 **Condition 14.** This Ordinance does not vest the development for transportation concurrency as
19 provided in the Concurrency Management Element of the City's Comprehensive Plan. The
20 owner/developer is required to apply for and meet concurrency management standards, including all
21 relevant Transportation Concurrency Exception Area standards, at the time of application for
22 development plan approval. An application for a Certificate of Final Concurrency must be
23 submitted with the application for final development plan approval.

24
25 **Condition 15** On information provided by the owner/developer and the Alachua County
26 Department of Environmental Protection, the proposed project site has dry-cleaning solvent
27 contamination on a portion of the site, and that site is currently listed in the State of Florida Dry-
28 cleaning Solvent Cleanup Program. As a condition of development, the owner/developer agree
29 to provide the City with a legally binding agreement that the owner/developer agree to indemnify
30 and hold the City harmless including, without limitation its commissioners, attorneys, employees,
31 agents, and assigns from and against any and all suits, actions, legal or administrative
32 proceedings, demands, fines, penalties, losses, injuries, claims, damages, costs and expenses,
33 including interest and reasonable attorney's and paralegal's fees, liabilities and all other
34 obligations (including third party claims for personal injury or real or personal property damage)
35 which owner/developer may incur or be exposed to which result from, are caused by, arise out of
36 or are attributable to any claims arising out of owner/developer's development and use of the
37 property. Furthermore, owner/developer shall agree to perform the appropriate studies to verify
38 that the proposed development will not have a negative impact on the onsite contamination, or

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1 owner/developer shall remove the onsite contamination and/or perform the required remediation
2 as required per state guidelines.

3

4 **Section 4.** The owner/developer represents to the City that the proposed development does
5 not and will not exceed the thresholds of a development of regional impact (DRI) as defined in
6 Chapter 380, F.S. All pertinent development thresholds (e.g., number of residential dwelling
7 units, office square footage, and retail/service square footage) shall be confirmed by the City
8 Manager or designee at the time of 'Development Plan Review' that the thresholds have not been
9 exceeded. The owner/developer shall include those thresholds in the final Planned Development
10 Report, under 'Statistical Information', and also include a statement that the development does
11 not exceed any threshold that requires the development to undergo development of regional-
12 impact review. This ordinance does not permit or allow any development that would constitute a
13 development of regional impact or any development that would require a development-of-
14 regional-impact review.

15 **Section 5.** The Future Land Use Map category of "Mixed-Use Low-Intensity (8-30 units
16 per acre)" and "Mixed-Use Residential (up to 75 units per acre)" on the property described in
17 Section 1 of this ordinance is neither abandoned nor repealed; such category is inapplicable as long
18 as the property is developed and used in accordance with the development plan approved in the
19 ordinance rezoning this property to Planned Development "PD". In the event, however, the
20 property described in Section 1 of this Ordinance is not rezoned by ordinance to Planned
21 Development "PD" within 18 months of this ordinance becoming effective, as provided in Section

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1 9 of this Ordinance, then the Planned Use District Category imposed by this Ordinance shall be
2 deemed null and void and of no further force and effect and the Future Land Use Map shall be
3 amended accordingly upon proper notice and action.

4 **Section 6.** The City Manager is authorized and directed to make the necessary changes in
5 maps and other data in the City of Gainesville 2000-2010 Comprehensive Plan, or element, or
6 portion thereof in order to comply with this ordinance.

7 **Section 7.** If any section, sentence, clause or phrase of this ordinance is held to be invalid
8 or unconstitutional by any court of competent jurisdiction then said holding shall in no way affect
9 the validity of the remaining portions of this ordinance.

10 **Section 8.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
11 such conflict hereby repealed.

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

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1 accordance with S.163.3187, F.S.

2 **PASSED AND ADOPTED** this _____ day of _____, 2005.

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8 ATTEST:

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13 _____
14 KURT LANNON,
15 CLERK OF THE COMMISSION

PEGEEN HANRAHAN, MAYOR

APPROVED AS TO FORM AND LEGALITY:

MARION J. RADSON, CITY ATTORNEY

15

16 This ordinance passed this _____ day of _____, 2005.

17

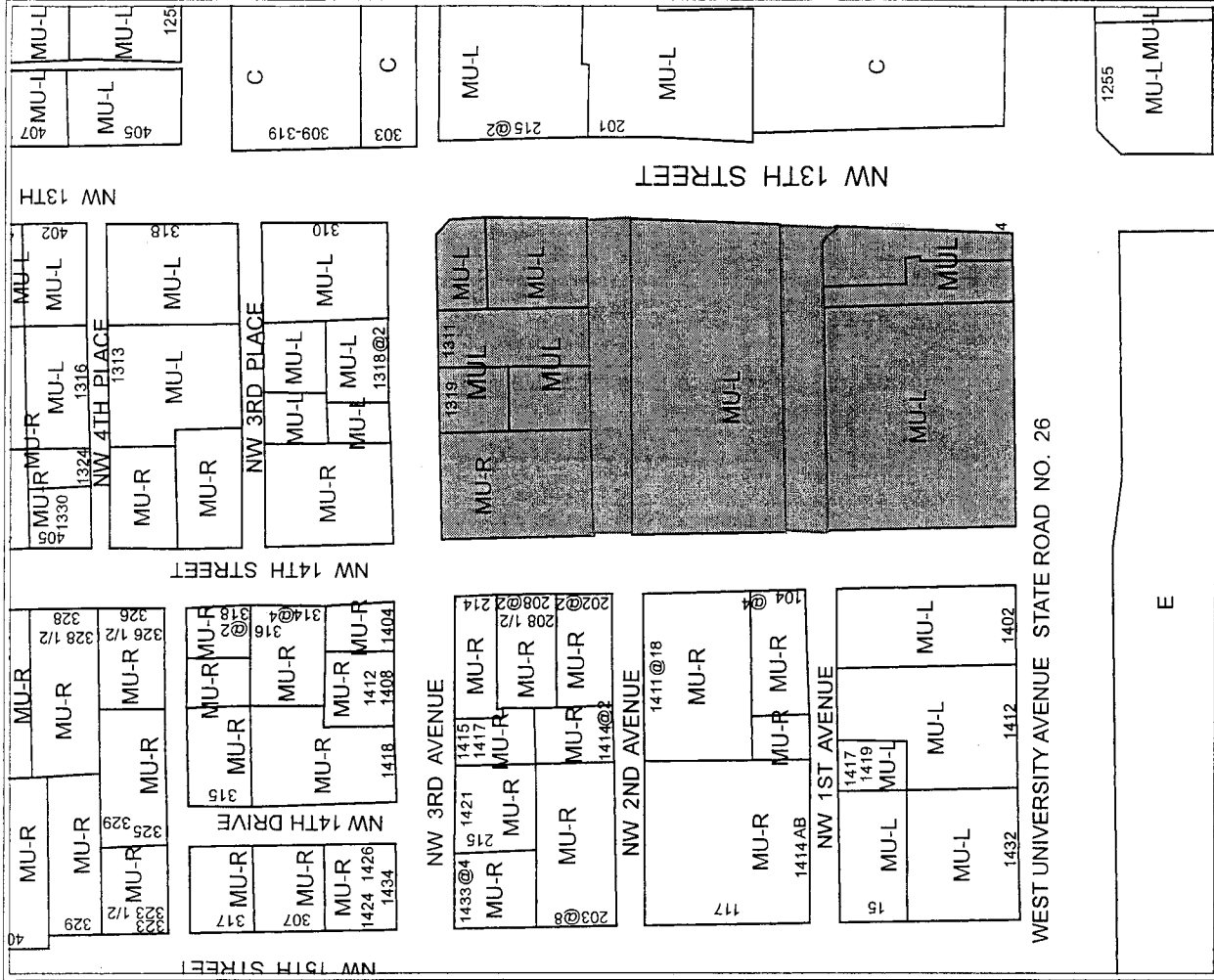
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Land Use Designations

- SF Single Family (up to 8 units per acre)
- RL Residential Low Density (up to 12 units per acre)
- RM Residential Medium Density (8-30 units per acre)
- RH Residential High Density (8-100 units per acre)
- MUR Mixed Use Residential (up to 75 units per acre)
- MUL Mixed Use Low Intensity (10-30 units per acre)
- MUM Mixed Use Medium Intensity (14-30 units per acre)
- MUH Mixed Use High Intensity (up to 150 units per acre)
- O Office
- C Commercial
- IND Industrial
- E Education
- REC Recreation
- CON Conservation
- AGR Agriculture
- PF Public Facilities
- PUD Planned Use District

--- Division line between two land use districts
 — City Limits

Area under petition consideration



LAND USE

Name	Petition Request	Map(s)	Petition Number
Jay Brawley, Genesis Group, agent for University Corners, LLC.	From MUL & MUR to PUD	3949	160LUC-04PB



EXHIBIT 'A'

EXHIBIT "B"

UNIVERSITY CORNERS

LEGAL DESCRIPTION:

An area of land located in Section 6, Township 10 South, Range 20 East, and further described as:

Commence at a nail and disk, P.L.S. #4788 located at the intersection of the centerline of NW 1st Avenue and the eastern right of way line of NW 14th Street and the Point of Beginning, run North 00° 28' 45" West, a distance 20.01 feet; thence run North 00° 25' 33" West, a distance of 160.16 feet; thence continue to run North 00° 25' 33" West, a distance of 40.00 feet; thence continue to run North 00° 25' 33" West, a distance of 160.30 feet; thence run North 89° 29' 47" East, a distance of 235.50 feet; thence continue to run North 89° 29' 47" East, a distance of 93.91 feet; thence run South 00° 00' 00" East, a distance of 53.33 feet; thence run South 00° 08' 37" West, a distance of 101.91 feet; thence run South 01° 22' 04" West, a distance of 50.02 feet to the point of curvature of a curve having a radius of 4,545.05 feet, a central angle of 01°25'07", a chord bearing of South 02° 23' 32" West, and a chord distance of 112.52 feet; thence continue southwesterly along said curve an arc distance of 112.53 feet; thence run South 03° 06' 06" West, a distance of 33.46 feet; thence continue to run South 03° 06' 06" West, a distance of 60.00 feet; ; thence continue to run South 03° 06' 06" West, a distance of 189.96 feet; thence run South 89° 28' 27" West, a distance of 303.30 feet; thence run North 00° 27' 46" West, a distance of 200.10 feet; thence run North 00° 28' 45" West, a distance 20.01 feet to the Point of Beginning.

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LEGAL NOTICES

**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 9th day of May, 2005, at the City Commission meeting. The meetings begin at 6:00 p.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. 040656
0-05-33**

An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Map; by overlaying the land use category of "Planned Use District" on certain property with the underlying land use categories of "Mixed-Use Low-Intensity (8-30 units per acre)" and "Mixed-Use Residential (up to 75 units per acre)"; located between West University Avenue on the South, Northwest 3rd Avenue on the North, Northwest 13th Street (US 441) on the East and Northwest 14th Street on the West; providing conditions; 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 of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based."

April 29, 2005
Publish Date

Clerk of the Commission

27511, 4/29/05