



# MEMORANDUM

Office of the City Attorney

LEGISLATIVE ITEM NO. 100189

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

**TO:** Mayor and City Commission

**DATE:** October 21, 2010

**FROM:** City Attorney

**ADOPTION READING**

**SUBJECT:** Ordinance No. 100189, Petition PB-10-25CPA  
An Ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan Future Land Use Element; amending Ordinance No. 070447 that adopted Policy 4.3.4 relating to the LandMar Development; generally located north of U.S. 441 and Northwest 74<sup>th</sup> Place lying east and west of SR 121 and CR 231, and south of Northwest 121<sup>st</sup> Avenue and consisting of approximately 1778 acres; providing for extension of rezoning time limitations; amending Policy 4.3.4; by renaming the Development; amending and revising certain environmental and transportation policies; providing directions to the City Manager and the codifier; providing a severability clause; and providing an effective date.

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

## STAFF REPORT

The 1,778-acre "LandMar" property is located on both sides of State Road 121, north of US 441 and N.W. 53rd Avenue, and east of the Deerhaven Power Plant. The City Commission approved a large-scale comprehensive plan amendment for this property on January 26, 2009 for up to 1,890 residential units and 100,000 square feet of non-residential uses. The approval established the following land uses: Planned Use District (PUD) on 167 acres; Residential Low Density on 365 acres, Single Family on 545 acres, and Conservation on 701 acres. The property is subject to the various requirements of Policy 4.3.4 of the Future Land Use Element. The property is currently used for silviculture operations and both the subject property and surrounding areas are rural in character. At least one-third of the 1,778-property is wetland, and the headwaters of three creek systems/basins are within it.

The property owner is proposing text amendments to FLUE Policy 4.3.4 "to clarify existing requirements and be consistent with the TCEA ordinances" (quote from Applicant's Proposed Revisions to Policy 4.3.4 of Future Land Use Element, Revised June 9, 2010). The proposed amendments comprise a large-scale amendment to the City's comprehensive plan, and are summarized by staff as follows: change PUD name throughout Policy 4.3.4 from "LandMar" to "Plum Creek" or "Plum Creek Land Company" and rename related map in the Future Land Use Map Series of the Comprehensive Plan; state that impacted wetlands are not subject to buffer width requirements; specify that wetland buffer area is included as upland area; refer to floodplain district definition of the land development code; require legally enforceable

Passed on first reading by a vote of 7-0.

documents regarding maintenance of the LID (low impact development) functional landscape; add requirement to fund transit service per TCEA Zone E standards; update transportation impact mitigation and other requirements and make other revisions in accord with the updated Concurrency Management Element; and delete a policy regarding DRI (Development of Regional Impact) review because no development in a Dense Urban Land Area is subject to DRI review.

Subsequent to the Plan Board hearing, staff revised the petition to include the landowner's request to extend the period of time in which a PD (planned development) zoning ordinance consistent with the PUD must be adopted. Staff originally was going to process the time extension through a different process, but later determined that it was more appropriate to include the proposed extension in the comprehensive plan amendment process. The land owner's request is to extend the original time period of 18 months from the January 26, 2009 adoption of the land use amendment to July 26, 2012, pursuant to policy 4.3.4.f.3.a of ordinance 070447. The proposed extension, if approved, will provide an additional 24 months for adoption of a PD zoning ordinance. The applicant has cited the major changes in market conditions since having starting the original land use change process as the major reason for the requested extension. The Florida Legislature in response to the economic downturn has extended the timeframe for other types of development projects. Staff supports the landowner's proposed 24-month extension of the period for adoption of a PD ordinance, and recommends that the City Commission approve it.

Public notice was published in the Gainesville Sun on June 8, 2010. The Plan Board held a public hearing on June 24, 2010.

#### CITY ATTORNEY MEMORANDUM

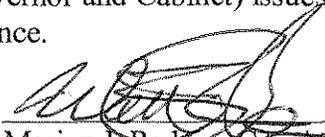
The City Commission at its meeting of October 7, 2010, authorized the advertisement and placement of this ordinance on the October 21, 2010 agenda.

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 State of Florida Department of Community Affairs issued a letter dated October 18, 2010, stating that the Department raises no objections to the proposed amendment. A copy of their letter is attached to this memorandum. Therefore, the City may now proceed with the final adoption of this ordinance.

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:

  
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Marion J. Radson, City Attorney



STATE OF FLORIDA  
**DEPARTMENT OF COMMUNITY AFFAIRS**

*"Dedicated to making Florida a better place to call home"*

CHARLIE CRIST  
Governor

THOMAS G. PELHAM  
Secretary

October 18, 2010

The Honorable Craig Lowe  
Mayor, City of Gainesville  
Post Office Box 490, Station 19  
Gainesville, Florida 32601-0490

Dear Mayor Lowe:

The Department of Community Affairs has completed its review of the proposed Comprehensive Plan Amendment for the City of Gainesville, DCA Number 10-2, which was received on September 10, 2010. Copies of the proposed amendment have been distributed to appropriate state, regional and local agencies for their review, and their comments are enclosed.

The Department has reviewed the comprehensive plan amendment for consistency with Rule 9J-5, Florida Administrative Code and Chapter 163, Part II, Florida Statutes and the City of Gainesville Comprehensive Plan. The Department does not identify any objections and this letter serves as the Objections, Recommendations and Comments report.

For your assistance, we have attached procedures for final adoption and transmittal of the comprehensive plan amendment. If you have any questions, please call Ana Richmond, Principal Planner at (850) 922-1794.

Sincerely,

Mike McDaniel, Chief  
Office of Comprehensive Planning

MM/ar

Enclosures: Review Agency Comments

cc: Mr. Scott Koons, AICP, Executive Director, North Florida Regional Planning Council  
Mr. Dean Mimms, AICP, Lead Planner, City of Gainesville

2555 SHUMARD OAK BOULEVARD ♦ TALLAHASSEE, FL 32399-2100  
850-488-8466 (p) ♦ 850-921-0781 (f) ♦ Website: [www.dca.state.fl.us](http://www.dca.state.fl.us)

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♦ HOUSING AND COMMUNITY DEVELOPMENT 850-488-7956 (p) 850-922-6623 (f) ♦

## TRANSMITTAL PROCEDURES

This letter and the enclosed external agency comments are being issued pursuant to Rule 9J-11.010, Florida Administrative Code. Upon receipt of this letter, the City of Gainesville has 60 days in which to adopt, adopt with changes, or determine that the City will not adopt the proposed amendment. The process for adoption of local comprehensive plan amendments is outlined in s.163.3184, Florida Statutes, and Rule 9J-11.011, Florida Administrative Code.

Within ten working days of the date of adoption, the City of Gainesville must submit the following to the Department:

Three copies of the adopted comprehensive plan amendments;

A listing of additional changes not previously reviewed;

A listing of findings by the local governing body, if any, which were not included in the ordinance; and

A statement indicating the relationship of the additional changes to the Department's Objections, Recommendations and Comments Report.

The above amendment and documentation are required for the Department to conduct a compliance review, make a compliance determination and issue the appropriate notice of intent.

Please be advised that the Florida Legislature amended Section 163.3184(8)(c), Florida Statutes, requiring the Department to provide a courtesy information statement regarding the Department's Notice of Intent to citizens who furnish their names and addresses at the local government's plan amendment transmittal (proposed) or adoption hearings. In order to provide this courtesy information statement, local governments are required by the law to furnish to the Department the names and addresses of the citizens requesting this information. Please provide these required names and addresses to the Department when you transmit your adopted amendment package for compliance review. In the event no names or addresses are submitted, please provide this information as well. For efficiency, we encourage the submittal information sheet in an electronic format.