



MEMORANDUM

Office of the City Attorney

Legistar No. 990195

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

TO: Mayor and City Commissioners

DATE: October 11, 1999
FIRST READING

FROM: City Attorney

SUBJECT: Ordinance No. 0-00-02; Petition No. 99CPA-99PB
An ordinance of the City of Gainesville, Florida, amending the City of Gainesville 1991-2001 Comprehensive Plan; amending policy 2.4.8 of the Future Land Use Element relating to the College Park Neighborhood south of NW 5th Avenue; clarifying that the intensity of development shall be regulated by building height and build-to (setback) requirements instead of Floor Area Ratio; providing directions to the city manager; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

RECOMMENDATION: The City Commission (1) approve Petition 99CPA-99 PB, and (2) adopt the proposed ordinance.

STAFF REPORT

The purpose of this change is to clarify that the intensity of development in the College Park Special Area Plan is regulated by building height and build-to (setback) requirements instead of a Floor Area Ratio. The current language in the Comprehensive Plan regulating the College Park Area development appears to be inconsistent. There appears to be a conflict between the MU-L (Mixed-Use Low Intensity, 10-30 units per acre) district which states that the maximum floor area ratio shall not exceed 2.00 and Policy 2.4.8 which is used to guide development in the College Park Plan regardless of the land use.

Policy 2.1.1: Mixed Use Low Intensity (10-30 units per acre)

This category includes a mixture of residential, office and retail uses scaled to serve the needs of the surrounding neighborhood. This category has been applied to commercial development to enhance the flexibility of these low intensity areas. It is not expected that these areas shall be expanded significantly during this planning period; creation of strip development is not intended.

Public and private schools, places of religious assembly and community facilities shall be appropriate in this category. Residential development from 10 to 30 units per acre shall be

permitted. Land Development Regulations shall ensure the compact, pedestrian character of these areas; provide guidelines for the compatibility of permitted uses; and ensure that such areas do not serve overlapping market areas of other designated low activity centers. Floor area ratios in this district shall not exceed 2.00.

Staff has interpreted the Comprehensive Plan in a way that allows policy 2.4.8 to limit the intensity of development on sites in College Park instead of Policy 2.1.1 which limits the floor area ratio to 2.00, since policy 2.4.8 speaks directly to the College Park Area. It could be interpreted that the language that appears in 2.4.8 does not give the City the right to go beyond policy 2.1.1 (2.00 FAR). It has been the practice of staff to use the land development regulations that have standards for build-to lines (and setbacks) and heights for regulating the intensity of development. The College Park Special Area Plan was prepared using New Urbanist principles which state that when looking at density, floor area ratio (FAR) zoning regulations are totally abstract and favor the design of building as singular objects. They are to be replaced with building envelope guidelines that link entitlements with predictable physical and architectural definitions of the public realm.

The Plan Board reviewed the petition and recommended approval. The Plan Board expressed concern that all the design standards are not in place, due to work being completed by Dover/Kohl and Partners. The Board would have liked some assurance that the design standards would control the intensity of development. The Board did agree with the concept of allowing design standards rather than floor area ratio dictate the intensity of development. Due to the fact that the final adoption of this amendment, if approved, is several months away, the revised design standards for the area will have been reviewed by both the Plan Board and the City Commission before the Comprehensive Plan amendment could be adopted.

Public notice was published in the Gainesville Sun on August 3, 1999. The Plan Board held a public hearing August 19, 1999. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board recommended that the City Commission approve Petition 99CPA-99 PB. Plan Board vote 5-1.

Fiscal Note
None.

CITY ATTORNEY MEMORANDUM

The proposed amendment to the Comprehensive Plan will be transmitted to the State Department of Community 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 by:



Patricia M. Carter
Sr. Assistant City Attorney

Approved and
Submitted by:



Marion J. Radson
City Attorney

MJR:PMC:sw

ORDINANCE NO. _____
0-00-02

An ordinance of the City of Gainesville, Florida, amending the City of Gainesville 1991-2001 Comprehensive Plan; amending policy 2.4.8 of the Future Land Use Element relating to the College Park Neighborhood south of NW 5th Avenue; clarifying that the intensity of development shall be regulated by building height and build-to (setback) requirements instead of Floor Area Ratio; providing directions to the city manager; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an effective date.

WHEREAS, the City Plan Board authorized the publication of notice of a Public Hearing that the text of the City of Gainesville 1991-2001 Comprehensive Plan be amended; and

WHEREAS, notice was given and publication made as required by law and a Public Hearing was then held by the City Plan Board on August 19, 1999; and

WHEREAS, notice was given and publication made of a Public Hearing which was then held by the City Commission on October 11, 1999; and

WHEREAS, pursuant to law, an advertisement no less than two columns wide by 10 inches long was placed in a newspaper of general circulation notifying the public of this proposed ordinance and of the Public Hearing to be held at the transmittal stage, in the City Commission Auditorium, City Hall, City of Gainesville, at least 7 days after the day the first advertisement was published; and

WHEREAS, pursuant to law, after the public hearing at the transmittal stage the City of Gainesville transmitted copies of this proposed change to the State Land Planning Agency; and

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

5 **WHEREAS**, the two Public Hearings were held pursuant to the published notices
6 described at which hearings the parties in interest and all others had an opportunity to be
7 and were, in fact, heard; and

8 **WHEREAS**, prior to adoption of this ordinance, the City Commission has
9 considered the comments, recommendation and objections, if any, of the State Land
10 Planning Agency;

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

13 **Section 1.** Policy 2.4.8 of the Future Land Use Element of the City of Gainesville 1991-
14 2001 Comprehensive Plan is amended to read as follows:

15 2.4.8 The following criteria shall be used to guide development in the College Park
16 Neighborhood south of NW 5th Avenue:

17 a. The intensity of development shall be regulated by the design guidelines
18 for the College Park Special Area, which include build-to-lines, building heights
19 and landscape requirements.

20 b. Type I buildings which allow retail, office and residential uses within four
21 story buildings shall be allowed in areas designated Mixed Use-Low. Retail uses

1 shall be restricted to the first two floors, office uses shall be allowed on all four
2 floors and residential shall be allowed on the second through fourth floors.

3 c. b. Type II buildings which that allow office and residential uses within a
4 3.5-story building shall be allowed in areas designated Mixed Use-Residential.

5 Office Uses accessory to the residential use shall be restricted to the second floor.

6 d. e. The Type III buildings which allow residential uses within a 2.5-story
7 building shall be allowed in areas designated Medium Density Residential.

8 Residential uses along with home occupations shall be the only uses allowed.

9 **Section 3.** The City Manager is authorized and directed to make the necessary changes in
10 maps and other data in the City of Gainesville 1991-2001 Comprehensive Plan, or
11 element, or portion thereof in order to fully implement this ordinance.

12
13 **Section 4.** If any section, sentence, clause or phrase of this ordinance is held to be invalid
14 or unconstitutional by any court of competent jurisdiction, then said holding shall in no
15 way affect the validity of the remaining portions of this ordinance.

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

18 **Section 6.** This ordinance shall become effective immediately upon final adoption;
19 however, the amendment to the City of Gainesville 1991-2001 Comprehensive Plan shall
20 not become effective until the state land planning agency issues a final order determining
21 the adopted amendment to be in compliance in accordance with section 163.3184(9), or
22 until the Administration Commission issues a final order determining the adopted
23 amendment to be in compliance in accordance with section 163.3184(10).

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PASSED AND ADOPTED this _____ day of _____, 1999.

PAULA M. DeLANEY
MAYOR

ATTEST:

Approved as to form and legality

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

This Ordinance passed on first reading this _____ day of _____, 1999.

This Ordinance passed on second reading this _____ day of _____, 1999.

carter:ordinances:99CPA-99PB

City of
Gainesville

Inter-Office Communication

Planning Division
x5023, FAX x3259, Station 12

Item No. 4

TO: City Plan Board

DATE: August 19, 1999

FROM: Planning Division Staff

SUBJECT: Petition 99CPA-99PB. City Plan Board. Amend the 1991–2001 Gainesville Comprehensive Plan to clarify that the intensity of development in the College Park Special Area Plan is regulated by building height and setback requirements instead of a Floor Area Ratio.

Recommendation

Staff recommends approval of Petition 99CPA-99 PB.

Explanation

The purpose of this change is to clarify that the intensity of development in the College Park Special Area Plan is regulated by building height and build-to (setback) requirements instead of a Floor Area Ratio. The current language in the Comprehensive Plan regulating the College Park Area development appears to be inconsistent. There appears to be a conflict between the MU-L (Mixed-Use Low Intensity, 10-30 units per acre) district which states that the maximum floor area ratio shall not exceed 2.00 and Policy 2.4.8 which is used to guide development in the College Park Plan regardless of the land use.

Policy 2.1.1:

Mixed Use Low Intensity (10-30 units per acre)

This category includes a mixture of residential, office and retail uses scaled to serve the needs of the surrounding neighborhood. This category has been applied to commercial development to enhance the flexibility of these low intensity areas. It is not expected that these areas shall be expanded significantly during this planning period; creation of strip development is not intended. Public and private schools, places of religious assembly and community facilities shall be appropriate in this category. Residential development from 10 to 30 units per acre shall be permitted. Land Development Regulations shall ensure the compact, pedestrian character of these areas; provide guidelines for the compatibility of permitted uses; and ensure that such areas do not serve overlapping market areas of other designated low activity centers. Floor area ratios in this district shall not exceed 2.00.

Policy 2.4.8 of the Comprehensive Plan states the following:

The following criteria shall be used to guide development in the College Park Neighborhood south of Northwest 5th Avenue:

- a. Type I buildings which allow retail, office and residential uses within four-story buildings shall be allowed in areas designated Mixed Use-Low. Retail uses shall be restricted to the first 2 floors, office uses shall be allowed on all four floors and residential shall be allowed on the second through the fourth floor.
- b. Type II buildings which allow office and residential uses within a 3.5-story building shall be allowed in areas designated Mixed Use-Residential. Office Uses accessory to the residential use shall be restricted to the first floor.
- c. The Type III buildings which allow residential uses within a 2.5-story building shall be allowed in areas designated Medium Density Residential. Residential uses along with home occupations shall be the only uses allowed.

Policy 2.4.8 implements objective 2.4 which states Redevelopment shall be encouraged to promote urban infill, improve the condition of blighted areas, to reduce urban sprawl and foster compact development patterns. Policy 2.4.9 which states, "The City shall adopt Land Development Regulations and a Special Area Plan for the College Park Neighborhood based on a Master Plan being prepared for the neighborhood. The Special Area Plan shall be adopted by amending the Comprehensive Plan. Land Development Regulations shall establish the overall density and intensity of uses." The City adopted special Land Development regulations that guide the intensity of development through building height and building envelop guidelines including setback and build-to-lines.

Staff has interpreted the Comprehensive Plan in a way that allows policy 2.4.8 to limit the intensity of development on sites in College Park instead of Policy 2.1.1 which limits the floor area ratio to 2.00, since policy 2.4.8 speaks directly to the College Park Area. It could be interpreted that the language that appears in 2.4.8 does not give the City the right to go beyond policy 2.1.1 (2.00 FAR). It has been the practice of staff to use the building height and the land development regulations that have standards for build-to lines (and setbacks) and heights for regulating the intensity of development. The College Park Special Area Plan was prepared using New Urbanist principles which state that when looking at density, Floor Area Ratio (FAR) zoning regulations are totally abstract and favor the design of building as singular objects. They are to be replaced with building envelope guidelines that link entitlements with predictable physical and architectural definitions of the public realm.

In order to clarify and eliminate any internal conflict in the Comprehensive Plan as it relates to how intensity of development will be determined in the College Park Special Area, staff recommends that Policy 2.4.8 of the Future Land Use Element be amended as follows:

Policy 2.4.8 of the Comprehensive Plan states the following:

The following criteria shall be used to guide development in the College Park Neighborhood south of Northwest 5th Avenue:

- a. The intensity of development shall be regulated by the design guidelines for the College Park Special Area which includes build-to-lines/setbacks, building height and landscape requirements.
- b. Type I buildings which allow retail, office and residential uses within four story buildings shall be allowed in areas designated Mixed Use-Low. Retail uses shall be restricted to the first 2 floors, office uses shall be allowed on all four floors and residential shall be allowed on the second through the fourth floor.
- c. Type II buildings which allow office and residential uses within a 3.5-story building shall be allowed in areas designated Mixed Use-Residential. Office Uses accessory to the residential use shall be restricted to the first floor.
- d. The Type III buildings which allow residential uses within a 2.5-story building shall be allowed in areas designated Medium Density Residential. Residential uses along with home occupations shall be the only uses allowed.

Respectfully submitted,



Ralph Hilliard
Planning Manager

Memorandum Via Fax

Date: August 11th 1999

To: Tom Saunders & Ralph Hilliard
Community Development Department, Gainesville

From: Victor Dover & Sergio Vazquez

Subject: **Planning tools for regulating traditional mixed-use neighborhoods**

College Park and University Heights are traditional neighborhoods. They can be walkable places that have buildings close to the street. The quality of these memorable public spaces and streets is created through the placement, orientation and height of well designed buildings.

Traditional neighborhoods and cities also have a mix of uses along the street. This encourages people to walk; they are not solely reliant on cars. The parking is shared—not every business or residence has to provide for all its parking needs. This is one distinction between mixed-use neighborhoods and pedestrian-hostile strip mall developments surrounded by parking. In the efficient arrangement possible in traditional neighborhoods, one physical difference is less *area* dedicated solely for parking and more area afforded to public squares, buildings and private outdoor spaces. We often say, “no one chooses Paris for its parking”. The buildings and landscape, not the parking, are what make traditional neighborhoods and cities memorable places.

The net result is the Floor Area Ratio will often be higher in mixed use-neighborhoods.

To maintain or create traditional neighborhoods and cities the architectural design of buildings, their placement, orientation and height should be regulated. The use of FAR (Floor Area Ratio) alone does not insure or regulate the desirable character found in traditional neighborhoods and cities. Underlying zoning can be modified to allow building design, placement, orientation and height to supersede FAR, or adjusted to better accommodate mixed-use neighborhoods.

4. **Petition 99CPA-99PB** City Plan Board. Amend the 1991–2001 Gainesville Comprehensive Plan to clarify that the intensity of development in the College Park Special Area Plan is regulated by building height and setback requirements instead of a Floor Area Ratio.

Mr. Ralph Hilliard was recognized. Mr. Hilliard indicated that the purpose of the petition was to amend the Land Development Code to be consistent with the College Park Special Area Plan. He explained that staff requested that the board consider staff's proposal that build-to lines, setbacks, and building height regulations were enough to regulate a structure on a lot and that floor area ratio regulations were not needed. He noted that the board had a memorandum from Dover, Kohl and Associates, the City's consultant for urban design regulations in the College Park and University Heights Neighborhoods. Mr. Hilliard explained that the memorandum indicated that floor area ratio was not required to control the bulk of a building. He indicated that it was staff's position that the College Park Urban Design Standards should regulate development in that area rather than suburban type floor area ratios. He noted that the proposed change would impact areas designated for commercial type development in the College Park Special Area Plan. Mr. Hilliard explained that staff had interpreted the College Park Plan in a manner that the design criteria developed for that area, and not floor area ratio, was applied to development plans. Mr. Hilliard stated that staff believed that it should be made clear that urban design regulations, not floor area ratio, would regulate the bulk of the building on the site. He offered to answer any questions from the board.

Chair Guy suggested that floor area ratios were more flexible, but specific standards allowed property to be filled and also allowed more cohesion to a street.

Mr. Hilliard agreed with the Chair. He explained that the urban design standards allowed more density and intensity in some areas. He noted that specific standards with build-to lines, sidewalks, and landscaping allowed more consideration of the site than a floor area ratio formula.

Dr. Fried pointed out that the term 'better design' was vague and varied at times.

Mr. Hilliard agreed that design standards did change. He discussed recent meetings and workshops to develop new standards in the City.

Chair Guy referred to a letter from Mr. Robert Pearce which had been provided in the board's packets. He noted that the letter stated that passage of the proposed amendment would void the City's minimum landscape requirements.

Mr. Hilliard suggested that Mr. Pearce's letter crossed two issues. He agreed that the Special Area Plan language stated that, if direction on a specific issue was not included in a particular design plan, the Land Development Code regulated that issue. He explained that staff was proposing to add more complete information in the Design Plans to cover all of the issues such as parking and landscaping so there would be no conflicts in regulation. He suggested that Mr. Pearce was asserting that, by removing the floor area ratio, there would not be enough room on the lot to allow landscaping. Mr. Hilliard pointed out that minimum landscaping would have to apply, if landscaping was not covered in the Urban Design Plan. He noted, however, that the Urban Design Plan had a section for landscaping. Mr. Hilliard explained that the board was

only voting on whether or not to accept the concept that building heights and setbacks were an appropriate regulator for building bulk and size.

Chair Guy opened the floor to public comment.

Mr. Robert Pearce was recognized. Mr. Pearce presented the board with copies of the text of the Land Development Code Section 30-80. He discussed, in detail, the relationship between a Special Area Overlay and the underlying Land Development Code Regulations. He explained that the special area overlay was designed to operate in conjunction with the underlying zoning district for the area. He pointed out that density and intensity of development, dimensional requirements, environmental management were not mentioned in the College Park Plan, and landscaping was only superficially addressed. Mr. Pearce indicated that, he believed that, in the areas mentioned, the underlying zoning should be applied. He discussed floor area ratio, lot coverage limits, minimum landscape and tree requirements. Mr. Pearce explained that it was staff's position that the underlying zoning requirements were not applicable, however, to date, most new development in the College Park area had only exceeded those dimensional requirements to a small degree. He suggested that new construction in the future would be very different. Mr. Pearce stated that staff's position was that building setbacks and building height limits were sufficient substitutes for floor area ratio when they were actually different aspects of development serving different purposes. He discussed the nature of development in the College Park Special Area Plan. Mr. Pearce noted that the only mention of landscaping in the College Park Special Area Plan was one sentence requiring one tree every sixteen feet in the front or rear yard. He asserted that it was staff's position that the one sentence addressed all of the landscaping and tree requirements of College Park, therefore, none of the City's other landscaping requirements apply. He suggested that the present landscaping requirements were so minimal, the floor area ratio was a very important requirement. Mr. Pearce requested that the board deny the petition and allow the underlying regulations to apply per the Land Development Code.

Chair Guy closed the public portion of the petition.

Mr. Polshek indicated the he did not see that landscaping was an issue.

Mr. Hilliard agreed that landscaping was not a part of the request to regulate the bulk and size of a building on a lot. He indicated that, while he understood Mr. Pearce's concern about the amount of landscaping required in the Special Area Plan, staff was working on revisions to the landscaping and setback requirements. He reiterated that the intent of the petition was to use setback and height restrictions instead of floor area ratio to regulate the bulk and size of a building.

Mr. Pearce asked the Chair to read, for the record, the proposed language of the petition.

At the request of the Chair, Mr. Hilliard read the text of the proposed regulation.

Mr. Hilliard stated that "the intensity of development shall be regulated by the Design Guidelines of the College Park Special Area Plan, which include build-to lines, setbacks, building height and landscape requirements."

Chair Guy pointed out that parking would impact landscaping.

Mr. Hilliard pointed out that the Design Guidelines could include other regulations than the ones stated. He pointed out there could be sidewalk, parking and stormwater regulations.

Mr. McGill pointed out that, in the College Park Plan, the side setbacks were essentially zero.

Mr. Hilliard agreed. He pointed out that the district was a commercial district and would not have major separations between buildings. He noted that the problem was the edge of the district where some separation was required.

Mr. McGill asked why the change was being proposed now if the guidelines were under review.

Mr. Hilliard explained that the petition involved a large scale amendment to the Comprehensive Plan and it would require six to seven months for complete adoption. However, he noted, the land development regulation items that addressed landscaping and other issues raised by Mr. Pearce could be adopted within that time.

Mr. McGill, referring to the proposed change to Policy 2.4.8, suggested that a comma be placed before the word which.

Mr. Hilliard pointed out that the board had, upon occasion, sent a message to the City Commission regarding their concerns about certain petitions. He explained that any design guideline changes would come before the board for approval. Mr. Hilliard suggested that the board send a message to the City Commission that they were uncomfortable with approving the current petition without actually seeing the design guideline changes. He explained that the board could also suggest to the Commission that, before the petition was adopted on second reading, the Commission be sure that the guidelines were appropriate and in place.

Chair Guy asked if the petition could be approved then that approval be withdrawn if the guidelines were not implemented.

Mr. Polshek indicated that he agreed with a build-to line for commercial development and if the floor area ratio prevented that, he would oppose it.

Mr. Pearce explained that the zero side yard did not pertain just to commercial development. He pointed out that it also pertained to Type II apartment development. He reiterated that, up to now, most buildings have conformed to the underlying zoning, primarily due to the desire for sufficient parking.

Mr. Polshek discussed his experiences in dealing with floor area ratio and agreed that it was a rather abstract concept and didn't place many constraints from an architectural or planning perspective. He agreed with the concept of the petition and could support the petition. At the request of the Chair, Mr. Polshek made a motion for approval.

Mr. McGill asked if the board wished to communicate to the Commission the concern about implementing additional design guideline regulation. He also requested that the clause in the text change beginning with the word 'which' have a comma placed before that word.

Mr. Polshek withdrew and restated the motion with the suggested amendments.

<u>Motion By:</u> Mr. Polshek	<u>Seconded By:</u> Ms. Dowling
<u>Moved to:</u> Approve Petition 99CPA-99 PB, adding a comma before the word <i>which</i> in Policy 2.4.8, <u>b</u> .	<u>Upon Vote:</u> Motion Carried 5-1 Yeas: Carter, Guy, Dowling, Polshek, McGill Nays: Fried

Mr. McGill recommended that the board communicate to the City Commission they did pass the petition on good faith that the appropriate design guidelines would be implemented.

Chair Guy requested that the board's request be specifically stated in the minutes.

Dr. Fried asked who would receive the proposed changes in the design guidelines, the Plan Board or the Development Review Board.

Mr. Hilliard indicated that the Plan Board would review the design standards and land development regulations as they were presented. He explained that the Development Review Board would review actual development projects after the guidelines were in place.