



MEMORANDUM

Office of the City Attorney

Legistar No. 002394

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

TO: Mayor and City Commission
FROM: City Attorney
SUBJECT: Ordinance No. 0-02-09

DATE: ~~February 23, 2002~~ March 11, 2002
~~FIRST READING~~
SECOND READING

An Ordinance of the City of Gainesville, Florida, annexing a portion of the City of Gainesville Reserve Area Pursuant to Chapter 90-496, as amended, by Special Acts, Laws of Florida, known as the Alachua County Boundary Adjustment Act; making certain findings; including within the corporate limits of the City of Gainesville, Florida, that certain compact and contiguous area generally north of NW 23rd Avenue, east of NW 51st Street, south of NW 39th Avenue and west of the city limits in the vicinity of NW 43rd Street; providing for inclusion of the area in Appendix I of the City Charter; providing for a referendum election; providing directions to the City Manager and Clerk of the Commission; providing ballot language; providing for land use plan and zoning regulations; providing for enforcement of Alachua County land use plan, zoning and subdivision regulations; providing for persons engaged in any occupation, business, trade or profession; providing a severability clause; and providing effective dates.

Recommendation: The City Commission adopt the proposed ordinance.

The adoption of an annexation ordinance is the final stage in the annexation process under the provisions of the Alachua County Boundary Adjustment Act. On Monday, October 8, 2001, at a regular city commission meeting, the City Commission authorized the City Manager and Attorney to commence the annexation process. On January 28, 2002 and February 11, 2002, the City Commission held advertised public hearings and adopted the Urban Services Report as mandated by the Boundary Adjustment Act. A copy of the Report has been delivered to the Board of County Commissioners of Alachua County.

ANNEXATION ORDINANCE

The annexation ordinance proposes to annex a contiguous, compact, unincorporated portion of the reserve area. The Boundary Adjustment Act requires the ordinance to be adopted as a nonemergency ordinance and to include one reasonably compact area. The ordinance will be submitted to a vote of the registered electors for their approval in a mail ballot election conducted on Tuesday, June 25, 2002.

In the Ordinance the City Commission makes certain findings of fact related to the area proposed for annexation. The area must meet certain standards as required by the Boundary Adjustment Act. In this regard, your attention is drawn to Section 1 of this Ordinance and the presentation by the City Manager. The annexation is effective at 12:01 a.m. on September 1, 2002 unless there is a tie vote or majority vote against the annexation.

Sections 7 and 8 of the Ordinance relate to special matters which may be of interest to the owners and residents and those persons engaged in any business or occupation. The Alachua County land use plan and zoning or subdivision regulations will remain in effect until the City adopts a comprehensive plan amendment that includes the annexed area, and rezones the property to a city zoning category. During the interim period, the City may rezone the property in the annexed area to an Alachua County Zoning classification/category that conforms with the Alachua County Comprehensive Plan in accordance with Chapter 163, F.S. Those persons engaged in any occupation, business, trade or profession in the area proposed for annexation will have the right to continue their occupations, businesses, trades or professions and shall obtain an occupational license from the City of Gainesville for the term commencing on October 1, 2002.

Prepared and
Submitted by:



Marion J. Kadson
City Attorney

MJR/sw

PASSED ON FIRST READING BY A VOTE OF 5-0.

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ORDINANCE NO. _____
0-02-09

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WHEREAS, Chapter 90-496, Special Acts, Laws of Florida, as amended by Chapter 91-382 and Chapter 93-347, Special Acts, Laws of Florida, created the "Alachua County Boundary Adjustment Act" (hereinafter collectively referred to as "the Act") which sets forth procedures for the annexation of contiguous, compact, unincorporated territory within a municipality's reserve area; and

WHEREAS, on January 13, 1998, the Board of County Commissioners of Alachua County designated the Reserve Area for the City of Gainesville pursuant to the Act; and

WHEREAS, on February 11, 2002, the City Commission of the City of Gainesville adopted Ordinance No. 002282 which adopted the Urban Services Report setting forth the plans to

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1 provide urban services to that portion of the Reserve Area proposed to be annexed in accordance
2 with the procedures provided in the Act; and

3 **WHEREAS**, a copy of the Urban Services Report was filed with the Alachua County
4 Board of County Commissioners; and

5 **WHEREAS**, the City of Gainesville desires to annex a certain portion of its Reserve Area
6 which is compact and contiguous to the present corporate limits of the City; and

7 **WHEREAS**, pursuant to law, at least seven days notice has been given once by publication
8 in a newspaper of general circulation notifying the public of the first Public Hearing of this
9 proposed Ordinance to be held in the City Commission meeting room, First Floor, City Hall, in the
10 City of Gainesville; and

11 **WHEREAS**, pursuant to law, at least five days notice has been given once by publication
12 in a newspaper of general circulation notifying the public of the second Public Hearing of this
13 proposed Ordinance to be held in the City Commission meeting room, First Floor, City Hall, in the
14 City of Gainesville; and

15 **WHEREAS**, Public Hearings were held pursuant to the published notice described above at
16 which hearings the parties in interest and all others had an opportunity to be and were, in fact,
17 heard.

18 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
19 **CITY OF GAINESVILLE, FLORIDA:**

20 **Section 1.** The City Commission finds that the Area described in Section 2 of this
21 Ordinance (hereinafter referred to as the "Area") is contiguous and reasonably compact to the

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1 present corporate limits of the City of Gainesville, and that no part of the Area is within the
2 boundary of another municipality or county. The City Commission finds the Area to be within its
3 Reserve Area and the annexation does not create an enclave. The City Commission finds that part
4 or all of the Area is developed for urban purposes because it is developed so at least 60% of the
5 total number of lots and tracts in the area at the time of annexation are used for urban purposes, and
6 it is subdivided into lots and tracts so that at least 60% of the total acreage, not counting the acreage
7 used at the time of annexation for nonresidential urban purposes, consists of lots and tracts 5 acres
8 or less in size.

9 **Section 2.** The following described Area is annexed and incorporated within the corporate
10 limits of the City of Gainesville, Florida:

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

14 **Section 3.** Subject to the provisions of Section 4 of this Ordinance, the corporate limits of
15 the City of Gainesville, Florida, as set forth in Article 1, Charter Laws of the City of Gainesville,
16 are amended and revised to include the Area described in Section 2 within the corporate limits of
17 the City of Gainesville, Florida.

18 **Section 4.** Pursuant to Section 8 of the Act, this Ordinance shall be submitted to a vote of
19 the registered electors of the Area described in Section 2 of this Ordinance at a special election
20 called for the purpose of holding the referendum. The referendum election shall be held on
21 Tuesday, June 25, 2002. The referendum shall be conducted by the Alachua County Supervisor of
22 Elections "Supervisor" in accordance with the provisions of the Act and Chapter 9, Gainesville

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1 Code of Ordinances, as applicable. The Supervisor is requested and authorized to conduct a mail
2 ballot election in this referendum in accordance with the provisions of the Mail Ballot Election Act
3 as codified in Chapter 101, Florida Statutes. The City Manager is authorized and directed to pay all
4 lawful expenses associated with the election.

5 **Section 5.** The Clerk of the Commission is authorized to publish notice of the referendum
6 on annexation as prescribed by law.

7 **Section 6.** Pursuant to Section 8 of the Act, the language to appear on the ballot of the
8 referendum election called in Section 4 shall be:

9 "For annexation of property described in Ordinance Number ____ of
10 the City of Gainesville"

11
12 "Against annexation of property described in Ordinance Number
13 of the City of Gainesville"

14
15 **Section 7.** In accordance with Section 171.062, Florida Statutes, the Alachua County land
16 use plan and zoning or subdivision regulations shall remain in full force and effect in the Area
17 described in Section 2 of this Ordinance until the City adopts a comprehensive plan amendment
18 that includes the annexed area. The Gainesville Code Enforcement Board and code enforcement
19 officers shall have jurisdiction to enforce these regulations during the interim period through the
20 Gainesville Code Enforcement Board process as described in Division 8 of Chapter 2 of the Code
21 of Ordinances of the City of Gainesville. During the interim period, the City may rezone properties
22 in the annexed area to an Alachua County Zoning classification/category that conforms with the
23 Alachua County Comprehensive Plan.

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1 **Section 8.** (a) Except as provided in subsection (b) below, all persons who are lawfully
2 engaged in any occupation, business, trade or profession within the area described in Section 2 of
3 this Ordinance as of Tuesday, September 1, 2002, shall have the right to continue such occupation,
4 business, trade or profession.

5 (b) Except as provided in subsection (c) below, all persons who are lawfully
6 engaged in any construction trade, occupation or business within the Area described in Section 2 of
7 this Ordinance as of September 1, 2002, and who possess a valid certificate of competency issued
8 by Alachua County shall have the right to continue the construction trade, occupation, or business
9 within the entire corporate limits of the City of Gainesville, including the Area described in Section
10 2 of this Ordinance, subject to the terms, conditions and limitations imposed on the certificate by
11 Alachua County, and provided such persons register the certificate with the Building Inspections
12 Department of the City of Gainesville and the Department of Business and Professional Regulation
13 of the State of Florida, if applicable, on or before 4:00 p.m. on September 1, 2003.

14 (c) All persons lawfully engaged in any occupation, business, trade or
15 profession within the Area described in Section 2 of this Ordinance on or after October 1, 2002,
16 shall obtain an occupational license from the City of Gainesville for the term commencing on
17 October 1, 2002, which license shall be issued upon payment of the appropriate fee in accordance
18 with the Gainesville Code of Ordinances in effect on October 1, 2002.

19 **Section 9.** If any portion of this Ordinance is declared by a court of competent jurisdiction
20 to be invalid or unenforceable, such declaration shall not be deemed to affect the remaining
21 portions of this Ordinance.

Exhibit "A"

A parcel of Land lying in the Southeast one quarter (SE 1/4) of Section 27, Township 9 South, Range 19 East, Alachua County, Florida, and being more particularly described as follows:

Commence at the Southeast corner of said Section 27 and run North 00° 06' 52" East along the East line of said Section a distance of 495.00 feet; thence run North 89° 55' 11" West, a distance of 50.00 feet to the existing City of Gainesville limit on the West right of way line of State Road S-329 (NW 43rd Street) and the Point of Beginning; thence continue North 89° 55' 11" West, a distance of approximately 613.12 feet to a point on the East line of Lot 63 of the "Subdivision of Section 27, Township 9 South, Range 19 East, Arredondo Grant" as per the plat thereof as described in Plat Book "A" at page 55 of the Public Records of Alachua County, Florida; thence run North, a distance of approximately 165.07 feet to the Northeast corner of said Lot 63; thence run West, along the North line of said Lot 63 also being the South line of Lot 50 of said "Arredondo Grant" a distance of approximately 663 feet to the Southwest corner of said Lot 50; thence continue West along the south line of Lot 51 of said "Arredondo Grant" a distance of approximately 663 feet to the Southwest corner of said Lot 51; thence run North along the West line of said Lot 51, a distance of approximately 663 feet to the Northwest corner of said Lot 51 said corner also being the Southwest corner of "Buck Ridge Unit-2" a subdivision as recorded in Plat Book "R", at page 31 of the Public Records of Alachua County, Florida; thence run along the West line of said "Buck Ridge Unit-2", North 00° 15' 19" East a distance of 663.36 feet to the Northwest corner of said "Buck Ridge Unit-2"; thence run along the North line of said "Buck Ridge Unit-2", South 89° 42' 46" East, a distance of 662.41 feet to the Northeast corner of said "Buck Ridge Unit-2", said corner also being the Northwest corner of Lot 47 of said "Arredondo Grant"; thence run East along the North line of said Lot 47 and along the North line of Lot 48 of said "Arredondo Grant" a distance of approximately 1276 feet to a point on the existing City of Gainesville limit on the West right of way line of State Road S-329 (NW 43rd Street); thence run South along said existing City of Gainesville limit and Westerly right of way line a distance of approximately 1,485.00 feet to the Point of Beginning. Containing 61 and one-quarter acres more or less.

