

# MEMORANDUM

Office of the City Attorney

Legistar No. 040662

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

**TO:** Mayor and City Commission

**DATE:** January 24, 2005  
FIRST READING

**FROM:** City Attorney

**SUBJECT:** Ordinance No. 0-05-11; Petition 183TCH-04 PB  
An ordinance of the City of Gainesville, Florida, amending the Land Development Code, relating to the automotive-oriented business (BA) district; amending subsection (c) of section 30-62; adding Sporting Goods Stores and Bicycle Shops (IN 5941) as an allowed use by right in the Automotive-oriented business district; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

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Recommendation: The City Commission (1) approve Petition 183TCH-04 PB and (2) adopt the proposed ordinance.

## COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

This petition proposes to add, as a use by right, Sporting Goods Stores and Bicycle Shops (IN 5941 from the Standard Industrial Classification (SIC) Manual (1987 edition)) to the BA (Automotive-oriented business district) zoning district. Examples of the types of retail stores under this category are shops selling: ammunition, bicycle and bicycle parts, camping equipment, golf goods and equipment, playground equipment, sporting goods stores, and tennis goods and equipment.

While the BA district is primarily established to accommodate automotive sales, services, and related activities, other commercial uses are allowed in the district. These include uses such as: building materials, hardware, garden supply and mobile home dealers (MG-52); home furniture, furnishings, and equipment stores; and hot tubs, swimming pools, whirlpool baths, retail only.

The BA district also permits the outdoor storage and sale of retail goods. Many of the uses under IN5941) would benefit from accessory outdoor storage and display of their goods. Examples are: camping equipment, golf goods and equipment, and playground equipment.

Planning staff finds that Sporting Goods Stores and Bicycle Shops are not incompatible with the automotive-oriented nature of the BA district, and many of these uses may need the accessory outdoor display, storage and sales provisions available under this district.

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

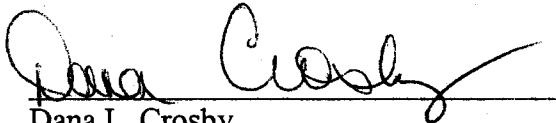
Public notice was published in the Gainesville Sun on November 16, 2004. Letters were mailed to owners of property zoned BA on November 17, 2004. The Plan Board held a public hearing December 2, 2004. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board recommended that the City Commission approve Petition 183TCH-04 PB. Plan Board vote 6-0.

CITY ATTORNEY MEMORANDUM


This ordinance requires two public hearings. If adopted on first reading; the second and final reading will be held on Monday, February 14, 2005.

Fiscal Note. None

Prepared by:

  
\_\_\_\_\_  
Dana L. Crosby  
Assistant City Attorney

Approved and  
Submitted by:

  
\_\_\_\_\_  
Marion J. Radson,  
City Attorney

MJR:DLC:sw

ORDINANCE NO. \_\_\_\_\_  
0-05-11

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**An ordinance of the City of Gainesville, Florida, amending the Land Development Code, relating to the automotive-oriented business (BA) district; amending subsection (c) of section 30-62; adding Sporting Goods Stores and Bicycle Shops (IN 5941) as an allowed use by right in the Automotive-oriented business district; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.**

**WHEREAS**, the City Plan Board authorized the publication of notice of a Public Hearing that the text of the Land Development Code of the City of Gainesville, Florida, 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 December 2, 2004; and

**WHEREAS**, pursuant to law, the City has mailed the appropriate notice to each person owning real property within the area covered by the ordinance; and

**WHEREAS**, pursuant to law, at least ten days notice has been given prior to adoption by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a Public Hearing in the City Commission meeting room, City Hall, City of Gainesville; and

**WHEREAS**, the Public Hearings were held pursuant to the notice described at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard;

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

1           **Section 1.** Subsection (c) of section 30-62, City of Gainesville Land Development Code,  
 2 is amended to read as follows:

3   Sec. 30-62. Automotive-oriented business district (BA).

4   (c)   *Permitted uses.*

SIC	Uses	Conditions
	<b>USES BY RIGHT:</b>	
	Any accessory use customarily incidental to a permitted principal use	
	Eating places	
	Ice dealers, retail only	
MG-15	Building construction--General contractors and operative builders	
MG-17	Construction--Special trade contractors	
IN-2261	Finishers of broadwoven fabrics of cotton	
IN-2262	Finishers of broadwoven fabrics of manmade fiber and silk	
MG-27	Printing, publishing and allied industries	
MG-41	Local and suburban transit and interurban highway passenger transportation	
MG-43	U.S. Postal Service	
GN-472	Arrangement of passenger transportation	
GN-501	Motor vehicles and motor vehicle parts and supplies, wholesale	Excluding motor vehicle parts, used (IN-5015)
GN-504	Professional and commercial equipment and supplies, wholesale	
GN-508	Machinery, equipment and supplies, wholesale	Excluding construction and mining (except petroleum) machinery and equipment (IN-5082), industrial machinery and equipment (IN-5084), and transportation equipment and supplies, except motor vehicles (IN-5088)
MG-52	Building materials, hardware, garden supply and mobile home dealers	
MG-54	Food stores	
MG-55	Automotive dealers and gasoline service stations	Including gasoline service stations in accordance with the requirements and conditions of article VI

MG-57	Home furniture, furnishings, and equipment stores	
<u>IN-5941</u>	<u>Sporting goods stores and bicycle shops</u>	<u>Accessory outdoor display, storage and sales in accordance with Sec. 30-67.</u>
GN-596	Nonstore retailers	
GN-598	Fuel dealers	
IN-5999	Hot tubs, swimming pools, whirlpool baths, retail only	
Div. H	Finance, insurance and real estate	
MG-72	Personal services	Including funeral services and crematories in accordance with the conditions and requirements of article VI
MG-73	Business services	Excluding heavy construction equipment rental and leasing (IN-7353), airplane rental and leasing, oil field equipment rental and leasing and oil well drilling equipment rental and leasing; and including disinfecting and pest control services (IN-7342), in accordance with article VI.
MG-75	Automotive repair, services and parking	Excluding carwashes (IN-7542)
MG-76	Miscellaneous repair services	
IN-7833	Drive-in motion picture theaters	
MG-79	Amusement and recreation services	Excluding go-cart raceway operations and go-cart rentals
MG-86	Membership organizations	
	USES BY SPECIAL USE PERMIT	
IN-7542	Carwashes	

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**Section 2.** It is the intention of the City Commission that the provisions of Section 1 of this ordinance shall become and be made a part of the Code of Ordinances of the City of Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered or relettered in order to accomplish such intentions.

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

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

6 Section 5. This ordinance shall become effective immediately upon final adoption.

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8 PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2005.  
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\_\_\_\_\_  
PEGEEN HANRAHAN  
MAYOR

ATTEST:

Approved as to form and legality

\_\_\_\_\_  
KURT M. LANNON  
CLERK OF THE COMMISSION

\_\_\_\_\_  
MARION J. RADSON  
CITY ATTORNEY

21 This Ordinance passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2005.

22 This Ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2005.

CITY  
OF \_\_\_\_\_ INTER-OFFICE COMMUNICATION  
GAINESVILLE

Item No.: 3

**TO:** City Plan Board                      **DATE:** December 2, 2004

**FROM:** Planning Division Staff

**SUBJECT:** Petition 183TCH-04PB, City Plan Board. Amend the City of Gainesville Land Development Code, BA (Automotive-oriented business district), to add Sporting Goods Stores and Bicycle Shops (IN 5941) as an allowed use by right.

**Recommendation**

**Planning Division staff recommends approval of Petition 183TCH-04PB.**

**Explanation**

This petition proposes to add, as a use by right, Sporting Goods Stores and Bicycle Shops (IN 5941 from the Standard Industrial Classification (SIC) Manual (1987 edition)) to the BA (Automotive-oriented business district) zoning district. A complete listing of uses under this SIC category is shown in Attachment 1. Examples of the types of retail stores under this category are shops selling: ammunition, bicycle and bicycle parts, camping equipment, golf goods and equipment, playground equipment, sporting goods stores, and tennis goods and equipment.

While the BA district is primarily established to accommodate automotive sales, services, and related activities, other commercial uses are allowed in the district. These include uses such as: Building materials, hardware, garden supply and mobile home dealers (MG-52); Home furniture, furnishings, and equipment stores; and Hot tubs, swimming pools, whirlpool baths, retail only.

The BA district also permits the outdoor storage and sale of retail goods. As can be noted from the list of uses listed under Sporting Goods Stores and Bicycle Shops (IN 5941, see Attachment 1), many of these uses would benefit from accessory outdoor storage and display of their goods. Examples are: camping equipment, golf goods and equipment, and playground equipment.

Planning staff finds that Sporting Goods Stores and Bicycle Shops are not incompatible with the automotive-oriented nature of the BA district, and many

City Plan Board  
Petition 183TCH-04PB  
December 2, 2004

of these uses may need the accessory outdoor display, storage and sales provisions available under this district.

Attachment 2 shows the addition of Sporting Goods Stores and Bicycle Shops (IN 5941) into the list of permitted uses in the BA zoning district.

**Impact on Affordable Housing**

None.

Respectfully submitted,



Ralph Hilliard  
Planning Manager

RH:ORL



**Attachment 1**

**Listing of uses under 1987 Standard Industrial Classification IN-5941**

Industry Group No.	Industry No.
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593 **USED MERCHANDISE STORES—Con.**

5932 **Used Merchandise Stores—Con.**

hand—retail  
Objects of art, antique—retail  
Pawnshops

Phonograph and phonograph record  
stores, secondhand—retail  
Shoe stores, secondhand—retail

594 **MISCELLANEOUS SHOPPING GOODS STORES**

\* 5941 **Sporting Goods Stores and Bicycle Shops**

Establishments primarily engaged in the retail sale of sporting goods, sporting equipment, and bicycles, bicycle parts, and accessories. Retail establishments primarily engaged in selling motorized bicycles are classified in Industry 5571, and those engaged in the retail sale of athletic footwear are classified in Industry 5661. Establishments primarily engaged in repairing bicycles are classified in Services, Industry 7699, and those renting bicycles are classified in Industry 7999.

Ammunition—retail  
Backpacking, hiking, and mountaineer-  
ing equipment—retail  
Bait and tackle shops—retail  
Bicycle and bicycle parts dealers,  
except motorized—retail  
Bowling equipment and supplies—  
retail  
Camping equipment—retail  
Exercise apparatus—retail  
Firearms—retail  
Fishing equipment—retail  
Golf goods and equipment—retail

Golf professionals operating retail  
stores  
Gymnasium equipment—retail  
Hunters' equipment—retail  
Playground equipment—retail  
Pool and billiards table stores—retail  
Riding goods and equipment—retail  
Saddlery stores—retail  
Skiing equipment—retail  
Skin diving and scuba equipment—  
retail  
Sporting goods stores—retail  
Tennis goods and equipment—retail

5942 **Book Stores**

Establishments primarily engaged in the retail sale of new books and magazines. Establishments primarily engaged in the retail sale of used books are classified in Industry 5932.

Book stores selling new books and mag-  
azines—retail

Religious book stores—retail

5943 **Stationery Stores**

Establishments primarily engaged in the retail sale of stationery, such as paper and paper products (including printing and engraving), postcards, and paper novelties. These establishments may also sell additional lines of office type supplies, such as accounting and legal forms, blankbooks and forms, and office forms and supplies. Establishments primarily engaged in selling office forms and supplies are classified in Wholesale Trade, Industry 5112. Establishments primarily engaged in the retail sale of greeting cards are classified in Industry 5947.

Pen and pencil shops—retail  
School supplies—retail

Stationery stores—retail  
Writing supplies—retail

5944 **Jewelry Stores**

Establishments primarily engaged in the retail sale of any combination of the lines of jewelry, such as diamonds and other precious stones mounted in precious metals as rings, bracelets, and broaches; sterling and plated silverware; and watches and clocks. Stores primarily engaged in watch and jewelry

## Attachment 2

### Proposed Amendment to the Land Development Code

#### Sec. 30-62. Automotive-oriented business district (BA)

(c) *Permitted uses.*

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IN-7542	Carwashes	

VI. *NEW BUSINESS.*

3. **Petition 183TCH-04 PB** City Plan Board. Amend the City of Gainesville Land Development Code, BA, (Automotive-oriented business district to add Sporting Goods Stores and Bicycle Shops (IN 5941) as an allowed use by right.

Ms. Onelia Lazzari was recognized. Ms. Lazzari indicated that the petition involved a text change to the Land Development Code to add sporting goods stores and bicycle shops to the Automotive-Oriented Business District. She indicated that the BA District allowed for outdoor display and the items in the IN 5941 of the SIC Manual, 1987, would benefit from having outdoor display. She stated that staff recommended approval of the petition and offered to answer any questions from the board.

Mr. Reiskind cited a concern that the persons who would take advantage of a bicycle shop may approach the area in a different mode of travel. He suggested that most would approach the area by car, but others would come by bicycle. He cited concerns about safety.

Ms. Lazzari noted that many of the existing bicycle shops and sporting goods stores were in the General Business or Mixed-Use I Districts. She explained that, by making the decision, the board did not force bicycle shops to locate in the BA District. She noted that IN 5941 included many other types of sales such as fishing, exercise, and playground equipment. She indicated that there had been some interest in locating a bicycle shop in the BA District.

There was no public comment on the petition.

Chair Pearce indicated that he believed adding bicycle shops and sporting goods stores to the BA District was appropriate.

<u>Motion By:</u> Mr. Gold	<u>Seconded By:</u> Mr. Reiskind
<u>Moved to:</u> Approve Petition 183TCH-04 PB.	<u>Upon Vote:</u> Motion Carried 6 - 0 Ayes: Cohen, Gold, Rwebyogo, Reiskind, Cole, Pearce.