



**MEMORANDUM**  
**Office of the City Attorney**

Legistar No. 080012

Box 46

Phone: 334-5011/Fax 334-2229

**TO:** Mayor and City Commission

**DATE:** December, 18, 2008  
CITY ATTORNEY  
ADOPTION READING

**FROM:** City Attorney

**SUBJECT:** Ordinance No. 0-08-44, Petition 48CPA-08PB

An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, Capital Improvements Element relating to public school facilities; by referencing in Policy 1.2.6 adoption of Level Service Standards for Public School Facilities; by creating and adopting Table 15, consisting of the 5-year District Facilities Work Program for the School Board of Alachua County; providing directions to the city manager; stating intent to adopt the new element as part of the City of Gainesville 2000-2010 Comprehensive Plan; providing a severability clause; providing a repealing clause; and providing an effective date.

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**Recommendation:** The City Commission (1) receive the Objections, Recommendations and Comments Report of the Florida Department of Community Affairs and (2) adopt the proposed ordinance as amended.

**PLANNING AND DEVELOPMENT SERVICES DEPARTMENT STAFF REPORT**

On July 14, 2008, the City Commission approved this ordinance for transmittal to the Florida Department of Community Affairs (DCA) for review in accordance with state law. On September 19, 2008, the DCA issued its Objections, Recommendations and Comments (ORC) Report to the City (attached as **Exhibit "A"**) for the three school concurrency related amendments. In the ORC report, the DCA objected that this amendment was not reflective of the 5-Year District Facilities Work Program on file with the Florida Department of Education and is not the best available data and analysis to support this amendment.

Planning staff reviewed this issue and found the School Board had adopted a new 5-Year District Facilities Work Program on October 7, 2008, and filed it with the State (subsequent to the City's transmittal of this amendment). This ordinance has been revised to incorporate the most current district work program that is on file with the State Department of Education. The Planning staff response to the ORC Report is attached as **Exhibit "B"**.

**Background**

The Capital Improvements Element (C.I.E.) must be amended in order to meet statutory requirements for public school concurrency. The amendments are consistent with the proposed Public School Facilities Element that is the subject of related Petition 46CPA-08 PB, and are required for its implementation. Data and analysis for these proposed amendments to the City's 2000-2010 City of Gainesville Comprehensive Plan are in the documents entitled City of Gainesville – Public School Facilities Element – February 6, 2008; School Board of Alachua

County Public School Facilities Element - Supplemental Dataset - December 2, 2008 - Proposed School Concurrency Program with Updated Capacity / Enrollment Data; Table 15: School Board of Alachua County 5-Year District Facilities Work Program (FY 08/09 -12/13) (in \$1,000s); Alachua County Schools – School Concurrency Map Series, consisting of three maps; and the Interlocal Agreement for Public School Facility Planning.

The LOS (Level of Service) standard for public school facilities is required to be included in the C.I.E. This comprehensive plan amendment meets this requirement by adding Public School Facilities to the list of LOS standards in Policy 1.2.6 of the Capital Improvements Element. The 5-Year Schedule of Capital Improvements is required to be updated by adding the School Board's five-year capital improvements program. The addition of the School Board of Alachua County 5-Year District Facilities Work Program to the 5-Year Schedule of Capital Improvements meets this requirement.

The proposed amendments to the Capital Improvements Element are consistent with the City of Gainesville 2000-2010 Comprehensive Plan, and are recommended for approval.

Public Notice was published in the Gainesville Sun on April 2, 2008. On April 24, 2008, the Plan Board held a public hearing and, by a vote of 7-0, recommended approval of the Petition. On June 23, 2008, the City Commission held a public hearing and approved the Petition.

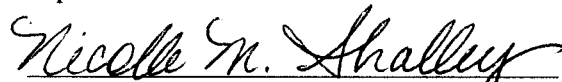
#### CITY ATTORNEY MEMORANDUM

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The first hearing is held at the transmittal stage and must be advertised seven days prior to the first public hearing. The second hearing will be held at the adoption stage of the ordinance and must be advertised five days before the adoption hearing.

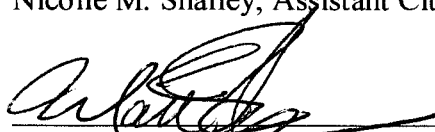
If adopted on first reading, the proposed amendment to the Comprehensive Plan will be transmitted to the State Department of Community Affairs (DCA) for written comment. Any comments, recommendations or objections of the DCA will be considered by the Commission at the second public hearing.

Following second reading, the Plan amendment will not become effective until the DCA 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:

  
Nicolle M. Shalley, Assistant City Attorney II

Approved and  
submitted by:

  
Marion J. Radson, City Attorney

MJR/NS/sw



**Exhibit "A"**

STATE OF FLORIDA

**DEPARTMENT OF COMMUNITY AFFAIRS**

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

CHARLIE CRIST  
Governor

THOMAS G. PELHAM  
Secretary

September 19, 2008

The Honorable Pegeen Hanrhan  
Mayor, City of Gainesville  
P.O. Box 490  
Gainesville, Florida 32602-0490

Re: Objections, Recommendations and Comments Report for Amendment 08-PEFE1

Dear Mayor Hanrhan:

The Department has completed its review of the proposed Comprehensive Plan Amendment for the City of Gainesville (DCA No. 08-PEFE1), which was received on July 13, 2008. Based on Chapter 163, Florida Statutes, we have prepared the attached report, which outlines our findings concerning the amendment. It is particularly important that the City address the 'objections' set forth in our review report so that these issues can be successfully resolved prior to adoption. We have also included a copy of local, regional and state agency comments for your consideration. Within the next 60 days, the City should act by choosing to adopt, adopt with changes or not adopt the proposed amendment. For your assistance, our report outlines procedures for final adoption and transmittal.

The amendment package consists of the new Public School Facilities Element, and updates to the Intergovernmental and Capital Improvements Elements. The Department has identified objections and comments to the proposed changes based on the need to provide the best available data and analysis to support the element and to ensure that the policies and proposed capital improvements schedule meet the minimum statutory requirements. The Department also identifies the need to update the School Interlocal Agreement to ensure that level of service standards, concurrency service areas, mitigation options and annual updates are consistent throughout the district. The Department believes the issues can be resolved with additional attention to the amendment and my staff is available should you require further assistance.

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)

♦ COMMUNITY PLANNING 850-488-2356 (p) 850-488-3309 (f) ♦  
♦ HOUSING AND COMMUNITY DEVELOPMENT 850-488-7956 (p) 850-922-5623 (f) ♦

The Honorable Pegeen Hanrhan  
September 19, 2008  
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If you, or your staff, have any questions as you formulate your response to this Report, please contact Susan Poplin, AICP, Regional Planning Administrator at 850/922-1821 or via e-mail at [susan.poplin@dca.state.fl.us](mailto:susan.poplin@dca.state.fl.us).

Sincerely yours,

Mike McDaniel  
Chief, Office of Comprehensive Planning

MM/spb

Enclosures: Objections, Recommendations and Comments Report  
Review Agency Comments

cc: Mr. Scott Koons, Executive Director, North Central Florida Regional Planning Council  
Mr. Dean Mimms, AICP, Chief of Comprehensive Planning

## TRANSMITTAL PROCEDURES

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 must submit the following to the Department:

- Three copies of the adopted comprehensive plan amendment;
- A copy of the adoption ordinance;
- 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.

In order to expedite the regional planning council's review of the amendment, and pursuant to Rule 9J-11.011(5), F.A.C., please provide a copy of the adopted amendment directly to Mr. Scott Koons, Executive Director, North Central Florida Regional Planning Council.

Please be advised that the Florida legislature amended Section 163.3184(8)(b), F.S., 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. This list is to be submitted at the time of transmittal of the adopted plan amendment.

**DEPARTMENT OF COMMUNITY AFFAIRS**  
**OBJECTIONS, RECOMMENDATIONS AND COMMENTS**  
**FOR CITY OF GAINESVILLE**  
**COMPREHENSIVE PLAN AMENDMENT 08-PEFE1**

September 19, 2008  
Division of Community Planning  
Office of Local Planning

This report is prepared pursuant to Rule 9J-11.010, F.A.C.

## INTRODUCTION

The following objections, recommendations and comments are based upon the Department's review of the City of Gainesville proposed amendment to their comprehensive plan (DCA number 08-PEFE1) pursuant to Chapter 163.3184, Florida Statutes (F.S.).

The objections relate to specific requirements of relevant portions of Rule 9J-5, Florida Administrative Code (F.A.C.), and Chapter 163, Part II, F.S. Each objection includes a recommendation of one approach that might be taken to address the cited objection. Other approaches may be more suitable in specific situations. Some of these objections may have initially been raised by one of the other external review agencies. If there is a difference between the Department's objection and the external agency advisory objection or comment, the Department's objection would take precedence.

Each of these objections must be addressed by the local government and corrected when the amendment is resubmitted for our compliance review. Objections, which are not addressed, may result in a determination that the amendment is not in compliance. The Department may have raised an objection regarding missing data and analysis items, which the local government considers not applicable to its amendment. If that is the case, a statement justifying its non-applicability pursuant to Rule 9J-5.002(2), F.A.C., must be submitted. The Department will make a determination on the non-applicability of the requirement, and if the justification is sufficient, the objection will be considered addressed.

The comments, which follow the objections and recommendations section, are advisory in nature. Comments will not form bases of a determination of non-compliance. They are included to call attention to items raised by our reviewers. The comments can be substantive, concerning planning principles, methodology or logic, as well as editorial in nature dealing with grammar, organization, mapping, and reader comprehension.

Appended to the back of the Department's report are the comment letters from the other state review agencies and other agencies, organizations and individuals. These comments are advisory to the Department and may not form bases of Departmental objections unless they appear under the "Objections" heading in this report.

**OBJECTIONS, RECOMMENDATIONS AND COMMENTS REPORT**  
**FOR CITY OF GAINESVILLE**  
**PROPOSED COMPREHENSIVE PLAN AMENDMENT 08-PEFE1**

**I. CONSISTENCY WITH CHAPTER 163, PART II, F.S., AND RULE 9J-5, F.A.C.**

The Department conducted a review of the proposed 08-PEFE1 amendment package for the City of Gainesville for consistency with Chapter 163, F.S., and Rule 9J-5, F.A.C. The Department identified objections and comments to the proposed amendment including the proposed Public School Facilities Element (PSFE), Intergovernmental Coordination Element (ICE) and Capital Improvements Element (CIE) amendments. Recommendations include ensuring consistency in the execution of a consistent School Interlocal Agreement (ILA) with Alachua County, the school district and the other municipalities in the district.

**A. Public Schools Facilities Element**

**1. Objection:** The element is not supported by best available data including an LOS analysis that considers the program capacity based on FISH and COFTE. Additionally, the five-year district facilities work plan included in the data is not reflective of the official work plan on file with the Florida Department of Education.

**Authority:** Section 163.3177(8) and (12)(c), F.S. and Rule 9J-5.005(2) and 9J-5.025(2)(a), (b), & (c), F.A.C.

**Recommendation:** Revise the amendment to include the data and analysis for LOS generated by Alachua County in August, 2008. Additionally, revise the submittal to include the best available 5-year district facilities work plan as data and analysis to support the element.

**2. Objection:** The proposed PSFE and CIE revisions include LOS standards for permanent program capacity that identifies interim standards for the West Urban CSA only. The adopted Alachua County PSFE and the proposed PSFEs for High Springs, City of Alachua, and Hawthorne also include interim standards for High Springs and Newberry. Therefore, the amendment does not meet the requirement to establish uniform districtwide standards because it is not inclusive of the interim standards for certain CSAs.

**Authority:** Section 163.3177(12), and 163.3180(13)(a) & (b), F.S., and Rule 9J-5.0055(2)(b), 9J-5.025(3)(c)7, F.A.C.

**Recommendation:** The amendment including PSFE Policy 2.2.1 and CIE Policy 1.2.6 should be revised to include LOS standards as identified in the Alachua County adopted PSFE to include the High Springs and Newberry CSA standards.

**3. Objection:** The proposed Public Educational Facilities Element does not include a specific objective to address correction of existing facility deficiencies and facilities needed to meet future needs and the inclusion in the five-year schedule of capital improvements those projects necessary to address existing deficiencies and meet future needs based upon achieving and maintaining the adopted level of service standards as required by Rule 9J-5.025(3)(b)1 and 9J-5.025(3)(b)3, F.A.C.



**Authority:** Section 163.3177(12)(e), 163.3180(13)(d), F.S., and Rule 9J-5.025(3)(b)1 and (3)(b)3, F.A.C

**Recommendation:** Revise the PSFE to include the needed objective and policies. The submittal should include a specific objective or policy that specifies the intent to correct existing facility deficiencies and include facilities needed to meet future needs, and include a provision requiring the inclusion in the five-year schedule of capital improvements those projects necessary to address existing deficiencies and meet future needs based upon achieving and maintaining the adopted level of service standards as required by Rule 9J-5.025(3)(b)1 and 9J-5.025(3)(b)3, F.A.C.

**4. Objection:** The proposed element authorizes an option for proportionate share mitigation that includes the establishment of an Educational Benefit District. This option is not one authorized by the PSFE or ILA for Alachua County. Additionally, the element includes language for concurrency reservations and for exemptions that is not consistent with the County's language including differences in the length of time temporary commitments and reservations are maintained. Policy 2.4.7 includes a concurrency temporary certificate timeframe not to exceed six months or whenever the final development order is issued. This timeframe is different from Alachua County's which indicates a temporary certificate not to exceed one year or whenever the final development order is issued. The same policy establishes a reservation "life" commensurate with the duration of the development order. Alachua County allows the maximum reservation "life" of three years. Therefore, the PSFE and ILA do not reflect a consistent approach throughout the district for proportionate share mitigation and concurrency management, and the PSFE is not supported by the ILA as data and analysis.

**Authority:** Section 163.3177(12) & (12)(c), 163.3180(13)(a), (e)1, and (g), F.S.

**Recommendation:** Revise the PSFE and ILA to be consistent with others in the district including Alachua County which does not list Educational Benefit Districts as an option. Additionally revise the Policy 2.4.7 to clarify the timeframes for concurrency commitments and reservations such that they are consistent with Alachua County and throughout the district.

**5. Comment:** The Alachua County policy establishing the LOS standards in the plan indicates the intent to disaggregate the data for combination schools allowing assessment of LOS using the facility types of elementary, middle and high. Policy 2.2.1 establishing the LOS standards for the City could be improved by also specifying that data will be disaggregated for combined facilities. Additionally, Policy 2.4.2 establishes certain exemptions which do not include a specific reference to multi-family homes. The policy could be improved by amending Policy 2.4.2 to clarify the provisions address multi-family units like Alachua County.

## **B. Capital Improvements Element**

**1. Objection:** The submittal includes a five-year capital improvements schedule that is not reflective of the most recent five-year district facilities work plan approved by Florida Department of Education. The statute indicates the element shall set forth a financially feasible public school capital facilities program, established in conjunction with the school board that demonstrates that the adopted level of service standards will be achieved and maintained.

**Authority:** Section 163.3177(3)(a), (8), & (12)(c) and 163.3180(13)(d)1. F.S. and Rule 9J-5.005(2) and 9J-5.016(4)(a)3, F.A.C..

**Recommendation:** Revise the amendment to incorporate the 2008/09-2012/13 Five Year District Facilities work plan. The best available date for the five year district facilities work plan should be included in the submittal to support the element.

### **C. Proposed School Interlocal Agreement**

The City has not provided an ILA for review.

**1. Objection:** The local government must execute an interlocal agreement with the district school board, the county, and nonexempt municipalities pursuant to s. 163.31777, F.S. The local government shall state the obligations of the local government under the agreement. The City of Gainesville has not provided an executed interlocal agreement as required.

**Authority:** Section 163.3177(6)(h)4. and (12), 163.31777(1)(a) and (d) and (2), and 163.3180(13)(g), F.S., and Rule 9J-5.015(3)(c)14, F.A.C.

**Recommendation:** Ensure that an adopted executed interlocal agreement is provided with the adopted element and that the interlocal agreement contains provisions that are consistent with those in the district.

## **II. CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN**

**Objection:** The proposed plan amendment is not consistent with the goals and policies of the State Comprehensive Plan Section 187.201, F.S., for Objections listed in Section I:

(16) Urban And Downtown Revitalization, Goal (a) and Policy (b)8; Promote processes for the state, general purpose local governments, school boards, and local community colleges to coordinate and cooperate regarding educational facilities in urban areas, including planning functions, the development of joint facilities, and the reuse of existing buildings;

(17) Public Facilities, Goal (a) and Policy (b)7; Encourage the development, use, and coordination of capital improvement plans by all levels of government;

(20) Governmental Efficiency, Goal (a) and Policy (b)1; Encourage greater cooperation between, among, and within all levels of Florida government through the use of appropriate interlocal agreements and mutual participation for mutual benefit; and

(25) Plan Implementation, Goal (a) and Policy (b)7; Ensure the development of strategic regional policy plans and local plans that implement and accurately reflect state goals and policies and that address problems, issues, and conditions that are of particular concern in a region.

**Recommendation:** Revise the amendment, as necessary, to be consistent with the above referenced goals and policies of the State Comprehensive Plan. Specific recommendations can be found following the objections cited previously in this report.

**City Responses to:**

**OBJECTIONS, RECOMMENDATIONS AND COMMENTS REPORT (issued 9/19/08)**

**FOR CITY OF GAINESVILLE**

**PROPOSED COMPREHENSIVE PLAN AMENDMENT 08-PEFE1**

**I. CONSISTENCY WITH CHAPTER 163, PART II, F.S., AND RULE 9J-5, F.A.C.**

The Department conducted a review of the proposed 08-PEFE1 amendment package for the City of Gainesville for consistency with Chapter 163, F.S., and Rule 9J-5, F.A.C. The Department identified objections and comments to the proposed amendment including the proposed Public School Facilities Element (PSFE), Intergovernmental Coordination Element (ICE) and Capital Improvements Element (CIE) amendments. Recommendations include ensuring consistency in the execution of a consistent School Interlocal Agreement (ILA) with Alachua County, the school district and the other municipalities in the district.

**A. Public Schools Facilities Element**

**1. Objection:** The element is not supported by best available data including an LOS analysis that considers the program capacity based on FISH and COFTE. Additionally, the five-year district facilities work plan included in the data is not reflective of the official work plan on file with the Florida Department of Education.

**Authority:** Section 163.3177(8) and (12)(c), F.S. and Rule 9J-5.005(2) and 9J-5.025(2)(a), (b), & (c), F.A.C.

**Recommendation:** Revise the amendment to include the data and analysis for LOS generated by Alachua County in August, 2008. Additionally, revise the submittal to include the best available 5-year district facilities work plan as data and analysis to support the element.

**City Response:** Agreed.

The amendment has been revised to include the most current data and analysis for LOS. The Supplemental Dataset (dated December 2, 2008) replaces Supplemental Datasets A & B (dated September 2, 2008) that were included with Alachua County's school concurrency amendment. The revised dataset is consistent with the School Board's current 5-Year District Facilities Work Program that was adopted on October 7, 2008. The School Board's most recent five-year district facilities work plan (work program) is included in this submittal as additional data and analysis, and incorporated in the amended Capital Improvements Element (CIE) as Table 15: School Board of Alachua County 5-Year District Facilities Work Program (FY 08/09 - 12/13), in the 5-Year Schedule of Capital Improvements.

**2. Objection:** The proposed PSFE and CIE revisions include LOS standards for permanent program capacity that identifies interim standards for the West Urban CSA only. The adopted Alachua County PSFE and the proposed PSFEs for High Springs, City of Alachua, and Hawthorne also include interim standards for High Springs and Newberry. Therefore, the

amendment does not meet the requirement to establish uniform districtwide standards because it is not inclusive of the interim standards for certain CSAs.

**Authority:** Section 163.3177(12), and 163.3180(13)(a) & (b), F.S., and Rule 9J-5.0055(2)(b), 9J-5.025(3)(c)7, F.A.C.

**Recommendation:** The amendment including PSFE Policy 2.2.1 and CIE Policy 1.2.6 should be revised to include LOS standards as identified in the Alachua County adopted PSFE to include the High Springs and Newberry CSA standards.

**City Response:** PSFE Policy 2.2.1 has been revised (see below) to include the standards for the High Springs and Newberry CSAs. It is not necessary to specify the High Springs and Newberry CSA standards in CIE Policy 1.2.6 because it adopts the LOS standards for public school facilities in PSFE Policy 2.2.1, which has been revised to meet the requirement for uniform district-wide standards by adding the CSA standards for High Springs and Newberry. Note that adopted CIE Policy 1.2.6 adopts the LOS standards for the various public facilities in the relevant Elements of the Comprehensive Plan, the pertinent Policies for which are listed in Policy 1.2.6. The addition of Public School Facilities and listing its pertinent Policy 2.2.1 is consistent with adopted CIE Policy 1.2.6.

**Policy 2.2.1**

The uniform, district-wide LOS standards shall be 100% of Permanent Program Capacity for elementary, middle and high schools. This LOS standard shall apply to all concurrency service areas (CSAs) (within Gainesville's city limits) as adopted in the Interlocal Agreement, except on an interim basis for the elementary Concurrency Service Area listed below:

High Springs CSA – 120% of Permanent Program Capacity through 2010-2011;

Newberry CSA – 115% of Permanent Program Capacity through 2010-2011; and,

West Urban CSA – 115% of Permanent Program Capacity through 2010-2011.

(Note – The High Springs and Newberry CSAs are outside of Gainesville's city limits. The LOS standards for the High Springs and Newberry CSAs are included in order to meet the requirement for uniform, district-wide standards. The LOS standard for the West Urban CSA shall only apply to areas that are within Gainesville's city limits.)

For combination schools, the School Board shall separately determine the capacity of each school to accommodate elementary, middle and high students, and shall apply the LOS standard prescribed above for elementary, middle and high school levels respectively.

**3. Objection:** The proposed Public Educational Facilities Element does not include a specific objective to address correction of existing facility deficiencies and facilities needed to meet future needs and the inclusion in the five-year schedule of capital improvements those projects necessary to address existing deficiencies and meet future needs based upon achieving and maintaining the adopted level of service standards as required by Rule 9J-5.025(3)(b)1 and 9J-5.025(3)(b)3, F.A.C.

**Authority:** Section 163.3177(12)(e), 163.3180(13)(d), F.S., and Rule 9J-5.025(3)(b)1 and (3)(b)3, F.A.C.

**Recommendation:** Revise the PSFE to include the needed objective and policies. The submittal should include a specific objective or policy that specifies the intent to correct existing facility deficiencies and include facilities needed to meet future needs, and include a provision requiring the inclusion in the five-year schedule of capital improvements those projects necessary to address existing deficiencies and meet future needs based upon achieving and maintaining the adopted level of service standards as required by Rule 9J-5.025(3)(b)1 and 9J-5.025(3)(b)3, F.A.C.

**City Response:** The PSFE includes the following:

**Policy 2.6.1**

The School Board shall annually update and amend the 5-Year District Facilities Work Program to reflect the (LOS) standards for schools to add a new fifth year, which continues to achieve and maintain the adopted LOS for schools. The 5-Year District Facilities Work Program ensures that the level of service standards for public schools are achieved and maintained within the period covered by the 5-year schedule of capital improvements. The 5-Year Work Program shall also address the correction of existing facility deficiencies and facilities needed to meet future needs. After the first 5-year schedule of capital improvements, annual updates to the schedule shall ensure that the LOS is achieved and maintained within the subsequent 5-year schedules of capital improvements necessary to address existing deficiencies and meet future needs based upon achieving and maintaining the adopted level of service standards. The City shall have neither obligation nor responsibility for funding the 5-Year District Facilities Work Program by including it in the Capital Improvements Element of the City's Comprehensive Plan.

**4. Objection:** The proposed element authorizes an option for proportionate share mitigation that includes the establishment of an Educational Benefit District. This option is not one authorized by the PSFE or ILA for Alachua County. Additionally, the element includes language for concurrency reservations and for exemptions that is not consistent with the County's language including differences in the length of time temporary commitments and reservations are maintained. Policy 2.4.7 includes a concurrency temporary certificate timeframe not to exceed six months or whenever the final development order is issued. This timeframe is different from Alachua County's which indicates a temporary certificate not to exceed one year or whenever the final development order is issued. The same policy establishes a reservation "life" commensurate with the duration of the development order. Alachua County allows the maximum reservation "life" of three years. Therefore, the PSFE and ILA do not reflect a consistent approach throughout the district for proportionate share mitigation and concurrency management, and the PSFE is not supported by the ILA as data and analysis.

**Authority:** Section 163.3177(12) & (12)(c), 163.3180(13)(a), (e)1, and (g), F.S.

**Recommendation:** Revise the PSFE and ILA to be consistent with others in the district including Alachua County which does not list Educational Benefit Districts as an option. Additionally revise the Policy 2.4.7 to clarify the timeframes for concurrency commitments and reservations such that they are consistent with Alachua County and throughout the district.

**City Response:** Educational Benefit District has been removed from the list of mitigation options in the PSFE, as follows:

**Policy 2.5.1**

Mitigation may be allowed for those developments that cannot meet the adopted LOS Standards. Mitigation options shall include options listed below for which the School Board assumes operational responsibility through incorporation in its adopted financially feasible 5-Year District Facilities Work Program, and which will maintain adopted LOS standards.

1. The donation, construction, or funding of school facilities or sites sufficient to offset the demand for public school facilities created by the proposed development;
2. The creation of mitigation banking within designated areas based on the construction of a public school facility in exchange for the right to sell capacity credits;
3. The establishment of a charter school with facilities constructed in accordance with the State Requirements for Educational Facilities (SREF),<sup>5</sup> and,
4. ~~The establishment of an Educational Benefit District. [Sections 1013.355-357 F.S.]~~

Timeframes in Policy 2.4.7 have been revised for consistency with other PSFEs and with the Interlocal Agreement, as follows:

**Policy 2.4.7**

The City shall not issue a certificate of final concurrency for any non-exempt residential development application until the School Board has issued a school capacity availability determination letter verifying capacity is available to serve the development. The school capacity availability determination letter shall indicate a temporary commitment of capacity of necessary school facilities for a period not to exceed ~~six (6)~~ twelve (12) months or until a final development order is issued, whichever occurs first.

- (a) Once the City reserves school capacity for concurrency purposes as a part of the final development order, the school capacity necessary to serve the development shall be considered reserved for a period not to exceed three (3) years or until completion of construction of development infrastructure required by the development order as specified in the City's land development regulations.

- (b) Phased projects, as provided for in the City's land development regulations, may obtain approval for a longer period, provided the development order is in accordance with a binding development agreement entered into by the School Board, the City of Gainesville, and the developer, which may include a phasing schedule or other timing plan for development plan approvals, capacity reservation fees, capacity enhancement agreements, or other requirements as determined by the School Board.
- (c) The City shall notify the School Board within fifteen (15) days of the approval or expiration of a concurrency reservation for a residential development. No further determination of school capacity availability shall be required for the residential development before the expiration of the certificate of final concurrency, except that any change requires review.

**5. Comment:** The Alachua County policy establishing the LOS standards in the plan indicates the intent to disaggregate the data for combination schools allowing assessment of LOS using the facility types of elementary, middle and high. Policy 2.2.1 establishing the LOS standards for the City could be improved by also specifying that data will be disaggregated for combined facilities. Additionally, Policy 2.4.2 establishes certain exemptions which do not include a specific reference to multi-family homes. The policy could be improved by amending Policy 2.4.2 to clarify the provisions address multi-family units like Alachua County.

**City Response:** Agreed. Policy 2.2.1 has been revised (see City Response to PSFE Objection 2) to specify that for combination schools, separate capacity determinations shall be made for the elementary, middle and high school levels. Policy 2.4.2 has been revised to include a provision specific to multiple multi-family residential development. The new provision of Policy 2.4.2 (sub-policy 2) is as follows:

2. Multi-family residential development that received final site plan approval prior to December 18, 2008, or multi-family development plans that are filed with the City and have received preliminary development plan approval prior to December 18, 2008 and the development approval has not expired.

## **B. Capital Improvements Element**

**1. Objection:** The submittal includes a five-year capital improvements schedule that is not reflective of the most recent five-year district facilities work plan approved by Florida Department of Education. The statute indicates the element shall set forth a financially feasible public school capital facilities program, established in conjunction with the school board that demonstrates that the adopted level of service standards will be achieved and maintained.

**Authority:** Section 163.3177(3)(a), (8), & (12)(c) and 163.3180(13)(d)1. F.S. and Rule 9J-5.005(2) and 9J-5.016(4)(a)3, F.A.C..

**Recommendation:** Revise the amendment to incorporate the 2008/09-2012/13 Five Year District Facilities work plan. The best available date for the five year district facilities work plan should be included in the submittal to support the element.

**City Response:** The CIE amendment has been revised by incorporating the School Board's most recent five-year district facilities work plan into the 5-Year Schedule of Capital Improvements. See Table 15: School Board of Alachua County 5-Year District Facilities Work Program (FY 08/09 -12/13), in the amended Capital Improvements Element.

**C. Proposed School Interlocal Agreement**

The City has not provided an ILA for review.

**1. Objection:** The local government must execute an interlocal agreement with the district school board, the county, and nonexempt municipalities pursuant to s. 163.31777, F.S. The local government shall state the obligations of the local government under the agreement. The City of Gainesville has not provided an executed interlocal agreement as required.

**Authority:** Section 163.3177(6)(h)4. and (12), 163.31777(1)(a) and (d) and (2), and 163.3180(13)(g), F.S., and Rule 9J-5.015(3)(c)14, F.A.C.

**Recommendation:** Ensure that an adopted executed interlocal agreement is provided with the adopted element and that the interlocal agreement contains provisions that are consistent with those in the district.

**City Response:** The Interlocal Agreement is scheduled for adoption by the City Commission on December 18, 2008.

**II. CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN**

**Objection:** The proposed plan amendment is not consistent with the goals and policies of the State Comprehensive Plan Section 187.201, F.S., for Objections listed in Section I:

(16) Urban And Downtown Revitalization, Goal (a) and Policy (b)8; Promote processes for the state, general purpose local governments, school boards, and local community colleges to coordinate and cooperate regarding educational facilities in urban areas, including planning functions, the development of joint facilities, and the reuse of existing buildings;

(17) Public Facilities, Goal (a) and Policy (b)7; Encourage the development, use, and coordination of capital improvement plans by all levels of government;

(20) Governmental Efficiency, Goal (a) and Policy (b)1; Encourage greater cooperation between, among, and within all levels of Florida government through the use of appropriate interlocal agreements and mutual participation for mutual benefit; and

(25) Plan Implementation, Goal (a) and Policy (b)7; Ensure the development of strategic regional policy plans and local plans that implement and accurately reflect state goals and policies and that address problems, issues, and conditions that are of particular concern in a region.



**Recommendation:** Revise the amendment, as necessary, to be consistent with the above referenced goals and policies of the State Comprehensive Plan. Specific recommendations can be found following the objections cited previously in this report.

**City Response:** Please see the City Responses to the four Objections and to the Comment, above.

ORDINANCE NO. 0-08-44

An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, Capital Improvements Element relating to public school facilities; by amending Policy 1.2.6 to require adoption of Level Service Standards for Public School Facilities; by creating and adopting Table 15, consisting of the 5-year District Facilities Work Program for the School Board of Alachua County; providing directions to the city manager; stating intent to adopt the amended element as part of the City of Gainesville 2000-2010 Comprehensive Plan; 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 Capital Improvements Element of the City of Gainesville 2000-2010 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 April 24, 2008; and

WHEREAS, pursuant to law, an advertisement 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

WHEREAS, a second advertisement was placed in the aforesaid newspaper notifying the public of the second Public Hearing to be held at least 5 days after the day

1 the second advertisement was published; and

2 WHEREAS, the two Public Hearings were held pursuant to the published notices  
3 described above at which hearings the parties in interest and all others had an opportunity  
4 to be and were, in fact, heard; and

5 WHEREAS, prior to adoption of this ordinance, the City Commission has  
6 considered the comments, recommendation and objections, if any, of the State Land  
7 Planning Agency.

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

10 Section 1. Policy 1.2.6 of the Capital Improvements Element of the City of Gainesville  
11 2000-2010 Comprehensive Plan is amended as follows:

12 **Capital Improvements Element**

13  
14 Policy 1.2.6 The City shall adopt the following LOS standards for public facilities within  
15 its jurisdiction as indicated in the relevant Elements of its Comprehensive  
16 Plan:

- 17
- 18 Transportation Mobility: Policies 3.2.3, 7.1.6, 7.1.7, 7.1.8,
- 19 7.1.11, 7.1.13
- 20 Stormwater: Policy 1.1.1
- 21 Potable Water: Policy 1.1.1
- 22 Wastewater: Policy 1.1.2
- 23 Recreation: Policy 1.1.1
- 24 Solid Waste: Policy 1.4.1
- 25 Concurrency Management: Policies 1.1.1, 1.1.2, 1.1.3, 1.1.4,
- 26 1.1.5, 1.1.6, 1.1.7, 1.1.9, 1.1.10
- 27 Public School Facilities: Policy 2.2.1
- 28

1 **Section 2.** Table 15 entitled "School Board of Alachua County's 5-Year District Facilities  
2 Work Program (FY 08/09 – 12/13~~07/08 – 11/12~~) (in \$1,000s)," as shown in Attachment  
3 A, is hereby adopted and made a part of the Capital Improvements Element.

4 **Section 3.** 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  
6 element, or portion thereof in order to fully implement this ordinance.

7 **Section 4.** It is the intent of the City Commission that the provisions of sections 1 and 2  
8 shall become and be made a part of the City of Gainesville 2000-2010 Comprehensive  
9 Plan and that the sections and paragraphs of this ordinance may be renumbered in order to  
10 accomplish such intention.

11 **Section 5.** If any word, phrase, clause, paragraph, section or provision of this ordinance  
12 or the application hereof to any person or circumstance is held invalid or unconstitutional,  
13 such finding shall not affect the other provisions or applications of the ordinance which  
14 can be given effect without the invalid or unconstitutional provisions or application, and to  
15 this end the provisions of this ordinance are declared severable.

16 **Section 6.** All ordinances or parts of ordinances in conflict herewith are to the extent of  
17 such conflict hereby repealed.

18 **Section 7.** This ordinance shall become effective immediately upon passage on second  
19 reading; however, the effective date of this plan amendment shall be the date a final order is  
20 issued by the Department of Community Affairs finding the amendment to be in compliance in  
21 accordance with Chapter 163.3184, F.S.; or the date a final order is issued by the

# DRAFT

12/4/08

1 Administration Commission finding the amendment to be in compliance in accordance with  
2 Chapter 163.3184, F.S.

3 **PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

4

5

6

7

\_\_\_\_\_  
PEGEEN HANRHAN  
MAYOR

8

9

10 ATTEST:

Approved as to form and legality

11

12

13

14

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

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

15

16

17 This Ordinance passed on first reading this 14<sup>th</sup> day of July, 2008.

18 This Ordinance passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

**Attachment "A" to Ordinance 0-08-44**

**TABLE 15: School Board of Alachua County's 5 Year District Facilities Work Program (FY 07/08 - 11/12) (in \$1,000s)**

Facility		2007-08	2008-09	2009-10	2010-11	2011-12	Total
Alachua Elem	Amount	\$6,977					\$6,977
	Capacity Added		200				200
New Elem F - High Springs	Amount			\$24,000			\$24,000
	Capacity Added				378		378
New Elem G - West Urban	Amount				\$33,000		\$33,000
	Capacity Added					756	756
Total Elementary	Amount	\$6,977		\$24,000	\$33,000		\$63,977
	Capacity Added	0	200		378	756	1,334
Total Middle	Amount						\$0
	Capacity Added						0
Santa Fe High	Amount		\$10,774				\$10,774
	Capacity Added		180 <sup>+</sup>	250			430
Total High	Amount		\$10,774				\$10,774
	Capacity Added		180	250			430
Total All Facilities	Amount	\$6,977	\$10,774	\$24,000	\$33,000		\$74,751
	Capacity Added	0	380	250	378	756	1,764
Revenue Sources: Capital Investment Tax (2 mill); Public Education Capital Outlay (PECO) New Construction; Classrooms for Kids; Certificate of Participation (COP) Proceeds; Capital Outlay & Debt Service (CO&DS) Trust Fund; Transfers for Food Service Fund (Refer to School Board of Alachua County Five Year District Facilities Plan 2007-08)							
<sup>+</sup> Funding authorized in 2006-07							

**(Note: None of the facilities in this work program are located within the city limits of Gainesville.)**

CODE: Words ~~stricken~~ are deletions; words underlined are additions; words double-underlined and ~~double-stricken~~ are changes made after the transmittal hearing.

Attachment "A" to Ordinance 0-08-44

TABLE 15: School Board of Alachua County 5-Year District Facilities Work Program  
(FY 08/09 - 12/13) (in \$1,000's)

<u>Funded Capacity Projects</u>		<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>5 YR Total</u>
<u>Location</u>	<u>Amount</u>						
	<u>Capacity Added</u>						
<u>Elem. "F" (West Urban CSA)</u>	<u>Amount</u>		\$25,000				\$25,000
	<u>Capacity Added</u>			778			778
<u>Elem. "G" (High Springs CSA)</u>	<u>Amount</u>			\$17,500			\$17,500
	<u>Capacity Added</u>				378		378
<u>Total Elementary</u>	<u>Amount</u>		\$25,000	\$17,500			\$42,500
	<u>Capacity Added</u>			778	378		1,156
<u>Fort Clarke Middle</u>	<u>Amount</u>				\$3,990		\$3,990
	<u>Capacity Added</u>					237	237
<u>Total Middle</u>	<u>Amount</u>				\$3,990		\$3,990
	<u>Capacity Added</u>					237	237
<u>Santa Fe High</u>	<u>Amount</u>		\$4,500				\$4,500
	<u>Capacity Added</u>			225			225
<u>Buchholz High</u>	<u>Amount</u>			\$7,320			\$7,320
	<u>Capacity Added</u>				180		180
<u>Total High</u>	<u>Amount</u>		\$4,500	\$7,320			\$11,820
	<u>Capacity Added</u>			225	180		405
<u>Total All Facilities</u>	<u>Amount</u>	\$0	\$29,500	\$24,820	\$3,990	\$0	\$58,310
	<u>Capacity Added</u>	0	0	1,003	558	237	1,798

(Note: None of the facilities in this work program are located within the city limits of Gainesville)

CODE: Words ~~stricken~~ are deletions; words underlined are additions; words double-underlined and ~~double-stricken~~ are changes made after the transmittal hearing.