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CITY OF GAINESVILLE
Office of the City Attorney

MEMORANDUM

Box No. 46
334-5011 / Fax 334-2229

TO: Mayor and City Commission
FROM: Marion J. Radson, City Attorney

DATE: February 8, 1999
CITY ATTORNEY
CONSENT

SUBJECT: Final Administrative Order in the Quasi-Judicial Matter of Collier Venture One, LP (located in the vicinity of the 1200 block of N.W. 21st Avenue, Gainesville, Florida); Legislative Item No. 980729, Petition No. 210LUC-98PB, to amend the Future Land Use Map from Conservation to Residential Medium Density; and Legislative Item No. 980730, Petition No. 211ZON-98PB, to rezone the property from Conservation to RMF-6.

Recommendation: The City Commission authorize the Mayor and Clerk of the Commission to execute the Final Administrative Order.

The City Commission, at its meeting of January 25, 1999, heard the quasi-judicial matter of Collier Venture One, LP, relating to Legislative Item No. 980729, (Petition No. 210LUC-98PB) and Legislative Item No. 980730, (Petition No. 211ZON-98PB) located in the vicinity of the 1200 block of N.W. 21st Avenue. At the conclusion of the hearing, the City Commission voted to deny the petitions, by a vote of 3 to 2. City Commission Rules require the decision to be embodied in a written order.

Prepared and
Submitted by:



Marion J. Radson
City Attorney

MJR/afm

1/27/99

BEFORE THE GAINESVILLE CITY COMMISSION

IN THE MATTER OF COLLIER VENTURE ONE, LP
LEGISLATIVE ITEM NOS. 980729 (Petition 210LUC-98PB);
AND 980730 (Petition No. 211ZON-98PB);

FINAL ORDER

The City Commission of the City of Gainesville held a formal quasi-judicial hearing that commenced on December 14, 1998 on Legislative Item No. 980729 (Petition 210LUC-98PB) and Legislative Item No. 980730 (Petition No. 211ZON-98PB), filed by Brown and Cullen, Inc., agent for Collier Venture One, LP (hereinafter referred to as "Petitioner").

STATEMENT OF THE PETITION

The Petitions request the City to amend the Future Land Use Map of the Comprehensive Plan, 1991-2001, on the subject property from "Conservation" to "Residential Medium Density (10-30 units per acre)", and to rezone the subject property from "CON: Conservation district" to "RMF-6: 10-15 units/acre multiple-family residential district".

The Petitioner states that the purpose of the Petitions is to eliminate an internal buffer to better utilize the subject property.

UNDISPUTED FACTS

The subject property consists of 0.65 (mol) acres of land and is located in the vicinity of the 1200 block of NW 21st Avenue, Gainesville, Florida, and is more specifically described in the applications filed by the Petitioner. The subject property is undeveloped and serves as a buffer between the parking area of an existing commercial use to the west and residential property to the east. On the East, the property is undeveloped and is zoned "RMF-6: 10-15 units/acre multiple-family residential district" and with the land use category of "Residential

Medium Density (10-30 units per acre)”; on the West, the land is improved and used as an - automobile dealership with the zoning category of “Mixed Use low intensity district” and with the land use category of “Mixed Use Low Intensity (10-30 units per acre)”; on the South, the land is improved with single-family homes with a zoning category of “RSF-1: 3.5 units/acre single-family residential district” and with the land use category of Single Family (up to 8 units per acre); on the North, the land is improved with single-family homes with the zoning categories of “OF: General office district” and “MU-1: mixed use low intensity district”; and with the land use categories of “Office”, and “Mixed Use Low Intensity”.

PRELIMINARY STATEMENT

On November 19, 1998 and November 30, 1998, the City Plan Board held public hearings on Petition Nos. 210LUC-98PB and 211ZON-98PB. After hearing the presentations by Community Development staff, who recommended approval of the petitions, the Petitioner, and other interested parties, the City Plan Board recommended that the City Commission deny Petitions nos. 210LUC-98B and 211ZON-98PB.

On December 14, 1998, the Gainesville City Commission held a formal quasi-judicial hearing on Petition No. 210LUC-98PB (Legislative Item No. 980729) and Petition No. 211ZON-98B (Legislative Item No. 980730). The hearing was continued until January 11, 1999, when the hearing was reconvened, and then continued until January 25, 1999 when the hearing was reconvened. The Petitioner and City staff stipulated that Legislative Item Nos. 980729 and 980730 be heard as a consolidated matter in the interest of Commission economy. The City Commission granted the Motions of Dr. Paul Wheeler, Theodore Williams, Michael Logan, Beau Gustafson, Nancy and Eric Garland, Steve Chamberlain, Milton Baxley, and Randy

Lawton, who requested to be included and added as affected parties under the Rules of the City Commission.

FINDINGS OF FACT

Based upon the oral and documentary evidence presented at the formal quasi-judicial hearing and the entire record of this proceeding, the following findings of fact are made:

- 1) The subject property serves as a buffer between the commercial property to the west and the residential uses to the south and east.
- 2) The subject property preserves the natural features of the land and protects the wildlife habitat in an urban environment.
- 3) The current “CON: Conservation district” zoning category and “Conservation” land use category does not interfere with the development of the property to the east.
- 4) The general character of the residential area to the east and south would be changed by the loss of wooded green space on the subject property.
- 5) The subject property serves as a buffer between the commercial uses on the west and Lake Meta to the south and east.
- 6) The current zoning category of “CON: Conservation district” and land use category of “Conservation” is consistent with the City of Gainesville 1991-2001 Comprehensive Plan as follows:
 - a. Future Land Use Element, Goal 1: Achieve the highest long term quality of life for all Gainesville residents consistent with sound social economics and environmental principles through land development practices that minimize detrimental impacts to the land, natural resources and urban infrastructure.

b. Future Land Use Element, Policy 2.1.1: Conservation: This category identifies areas environmentally unsuited to urban development, permanent buffers between land uses, areas used for passive recreation and nature parks. Privately held properties within this category shall be allowed to develop at single-family densities of one unit per five acres. Land Development Regulation shall determine the appropriate scale of activities, structures and infrastructure that will be allowed.

CONCLUSIONS OF LAW

- 1) The Petitions to change the land use and zoning on the subject property is not consistent with the City's Comprehensive Plan.
- 2) The current zoning district category of "CON: Conservation district" is compatible with the current land use category of "Conservation".
- 3) The Petitioner failed to meet its burden showing that the current zoning and land use category is obsolete and no longer serves a valid purpose.
- 4) The competent substantial evidence and testimony show that the current zoning and land use category is appropriate and compatible with the surrounding land use and zoning categories.

ORDER

Based on the foregoing findings of fact and conclusions of law, the City Commission Does not approve, and therefore denies, Legislative Item No. 980729 (Petition No. 210LUC-

98PB) and Legislative Item No. 980730 (Petition No. 211ZON-98PB).

Dated this _____ day of February, 1999, nunc pro tunc January 25, 1999.

PAULA M. DeLANEY, MAYOR

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

KURT LANNON
CLERK OF THE COMMISSION

MARION J. RADSON, CITY ATTORNEY

Copies furnished to:

Brown and Cullen Inc., agent for Petitioner

Dr. Paul Wheeler

Theodore Williams

Michael Logan

Beau Gustafson

Nancy and Eric Garland

Steve Chamberlain

Milton Baxley

Randy Lawton

Ralph Hilliard, Department of Community Development, City of Gainesville