

**CITY OF GAINESVILLE
LAW DEPARTMENT****MEMORANDUM**

Box No. 46

334-5011 / Fax 334-2229

TO: Mayor and City Commissioners**DATE:** October 12, 1998**FROM:** Marion J. Radson, City Attorney**CITY ATTORNEY****SECOND READING****SUBJECT:** Ordinance No. 0-98-69, Petition No. 37LUC-97PB

An Ordinance amending the City of Gainesville 1991-2001 Comprehensive Plan, Future Land Use Map; by overlaying the Planned Use District Category over certain property with the future land use categories of "Residential Low Density (up to 12 units per acre)" and "Conservation"; located in the vicinity of the 900 block of N.E. 39th Avenue, south side; providing additional conditions and directions; repealing Ordinance No. 960936 that was adopted in error; providing a severability clause; providing a repealing clause; and providing an effective date.

Recommendation: The City Commission: 1) receive the preliminary review of the Department of Community Affairs; and 2) adopt the proposed ordinance.

The above-referenced ordinance has been prepared pursuant to City Commission action requesting the City Attorney's Office to prepare the appropriate ordinance amending the City of Gainesville 1991-2001 Comprehensive Plan.

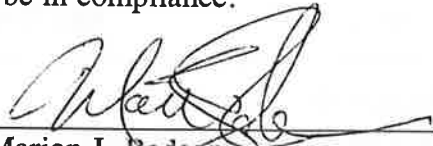
The proposed amendment to the Comprehensive Plan was transmitted to the State Land Planning Agency for written comment. Any comments, recommendations or objections of the State Department of Community Affairs must be considered at the second public hearing. The City Commission may then adopt or adopt with changes the proposed amendment to the Comprehensive Plan, or determine not to adopt a plan amendment.

The State of Florida Department of Community Affairs issued a letter dated September 3, 1998 stating that this amendment need not be formally reviewed for consistency with Chapter 163, F.S. A copy of their letter is attached to this memorandum. Therefore, the City may now proceed with the final adoption of this ordinance.

Plan amendments do not become effective until the state land planning agency 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 and
Submitted by:


Marion J. Radson
City Attorney

MJR/afm

Attachment

Passed on first reading on 7/27/98 by a vote of 4-0.



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

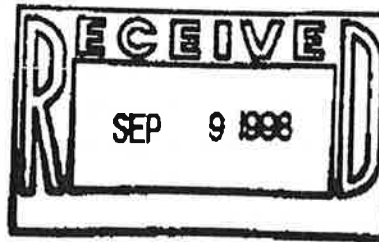
"Helping Floridians create safe, vibrant, sustainable communities"

LAWTON CHILES
 Governor

JAMES F. MURLEY
 Secretary

September 3, 1998

The Honorable Bruce Delaney
 Mayor, City of Gainesville
 Post Office Box 490, Station 19
 Gainesville, Florida 32602



Dear Mayor Delaney:

The Department has conducted a preliminary review of the City of Gainesville proposed comprehensive plan amendment received on August 10, 1998, DCA Reference No. 98-2.

The Department has determined that the proposed plan amendment need not be formally reviewed for consistency with Chapter 163, Florida Statutes, and Rule 9J-5, Florida Administrative Code. In addition, the Department has not received any recommendation for review from the North Central Florida Regional Planning Council or any affected person regarding the proposed amendment.

Therefore, the proposed amendment will not be reviewed and the Objections, Recommendations and Comments report will be waived. The City may proceed to immediately adopt the amendment.

This letter should be made available for public inspection. If you have any question, please contact Walker Banning, Community Program Administrator, or Vicki Morrison, Planner IV, at (850)487-4545.

Sincerely,

Maria Abadal Cahill
 Growth Management Administrator

MAC/tcs

cc: Ralph Hilliard, Planning Manager
 Dean Mimms, AICP, Chief of Comprehensive Planning
 Charles F. Justice, Executive Director, North Central Florida Regional Planning Council

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100
 Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781
 Internet address: <http://www.state.fl.us/comaff/dca.html>

FLORIDA KEYS
 Area of Critical State Concern Field Office
 2794 Overseas Highway, Suite 212
 Marathon, Florida 33050 2227

GREEN SWAMP
 Area of Critical State Concern Field Office
 155 East Summerlin
 Bartow, Florida 33830-4641

SOUTH FLORIDA RECOVERY OFFICE
 P.O. Box 4022
 8600 N.W. 36th Street
 Miami, Florida 33159-4022

ORDINANCE NO. _____
0-98-69

An Ordinance amending the City of Gainesville 1991-2001 Comprehensive Plan, Future Land Use Map; by overlaying the Planned Use District Category over certain property with the future land use categories of "Residential Low Density (up to 12 units per acre)" and "Conservation"; located in the vicinity of the 900 block of N.E. 39th Avenue, south side; providing additional conditions and directions; repealing Ordinance No. 960936 that was adopted in error; providing a severability clause; providing a repealing clause; and providing an effective date.

WHEREAS, the real property which is the subject matter of the ordinance involves approximately 83.79 acres of land; and

WHEREAS, on April 27, 1998, the City Commission adopted Ordinance No. 960936 that utilized in error the adoption procedures of a small scale development activity; and

WHEREAS, the City Plan Board authorized the publication of notice of a Public Hearing that Planned Use District Classification be overlaid on certain lands within the City with the Land Use Categories of "Residential Low Density (up to 12 units per acre)" and "Conservation"; and

WHEREAS, notice by the Plan Board was given and publication made as required by law and a Public Hearing was held by the City Plan Board on August 21, 1997; and

WHEREAS, notice was given and publication made of a Public Hearing which was held by the City Commission on September 25,

1 1997; and

2 **WHEREAS**, it is necessary that the City Commission adopt the
3 land use amendment in accordance with the procedures provided in
4 Chapter 163, F.S.; and

5 **WHEREAS**, pursuant to law, an advertisement no less than two
6 columns wide by 10 inches long was placed in a newspaper of
7 general circulation notifying the public of this proposed
8 ordinance and of the Public Hearing to be held in the City
9 Commission Meeting Room, First Floor, City Hall, in the City of
10 Gainesville at least seven (7) days after the day the first
11 advertisement was published; and

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

15 **WHEREAS**, a second advertisement no less than two columns
16 wide by 10 inches long was placed in the aforesaid newspaper
17 notifying the public of the second Public Hearing to be held at
18 the adoption stage at least five (5) days after the day the
19 second advertisement was published; and

20 **WHEREAS**, the two (2) Public Hearings were held pursuant to
21 the published notices described above at which hearings the
22 parties in interest and all others had an opportunity to be and
23 were, in fact, heard.

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

3 **Section 1.** The Future Land Use Map of the City of
4 Gainesville 1991-2001 Comprehensive Plan is amended by overlaying
5 the Planned Use District category on the following described
6 property with the current Land Use Categories of "Residential Low
7 Density (up to 12 units per acre)" and "Conservation";

8
9 See legal description attached hereto as Exhibit "A",
10 and made a part hereof as if set forth in full.

11 **Section 2.** The Planned Use District overlay category on the
12 property described in Section 1 of this Ordinance is subject to
13 the following terms, conditions and restrictions:

14 a) The commercial and warehousing portions of the
15 development shall have a maximum floor area ratio of .30.

16 b) Residential density is limited to a maximum of 8 units
17 per acre.

18 c) Land uses permitted within the development shall be
19 commercial, warehousing, and single-family residential as defined
20 in the Comprehensive Plan. The uses are shown on "Map 1"
21 attached hereto and made a part hereof as if set forth in full.

22 d) The single-family residential areas may contain
23 detached or attached single-family units but the predominant type
24 shall be detached single-family units. The exact proportion
25 shall be specified in the zoning ordinance that rezones the

1 property described in Section 1 of the Ordinance to Planned
2 Development.

3 e) As an integral part of the single-family residential
4 development area, the development shall include a one-acre
5 compact area for recreational use. The recreation area shall
6 include active areas and passive recreation and facilities.
7 Specific details of the recreational areas and facilities shall
8 be specified in the zoning ordinance that rezones the property
9 described in Section 1 of this ordinance to Planned Development.

10 f) The number of vehicular access points to the
11 development shall be consistent with the Transportation Mobility
12 Element of the City's 1991-2001 Comprehensive Plan and the
13 specific requirements of the Florida Department of Transportation
14 which has jurisdiction on NE 39th Avenue.

15 g) The exact number of specific location and configuration
16 of vehicular access points to the public rights-of-way shall be
17 determined during the development review process and shall be
18 included in the ordinance rezoning the property described in
19 Section 1 of this ordinance to Planned Development. Vehicular
20 access points shall be designed and limited in number in the
21 interest of public safety and to minimize congestion on the
22 roadway systems.

23 h) An appropriate environmental study and field
24 investigation report for each portion of property proposed for

1 development review shall be prepared by the developer at its sole
2 cost and expense and shall be submitted to the appropriate
3 reviewing body as a part of the development review process. All
4 jurisdictional wetlands shall be protected in accordance with the
5 Conservation Element of the City's 1991-2001 comprehensive Plan.

6 i) A 100 foot wide natural buffer shall be maintained in
7 its existing condition between the "Single-family Residential"
8 and "Warehousing" area, and between the "Single-family
9 Residential" and the area marked "BA" west of the subject
10 property, as more specifically shown on Map 2 attached hereto and
11 made a part hereof as if set forth in full. A 50 foot natural
12 buffer shall be maintained in its existing condition between the
13 common boundary of the single-family residential uses and
14 commercial uses as more specifically shown on Map 2.

15 **Section 3.** A planned development zoning ordinance is
16 required to be adopted in order to implement and permit the
17 development plan and the uses permitted by this Ordinance.

18 **Section 4.** The Future Land Use Map Category of "Residential
19 Low Density (up to 12 units per acre)" and "Conservation" on the
20 property described in Section 1 of this ordinance is neither
21 abandoned nor repealed; such category is inapplicable as long as
22 the property is developed and used in accordance with the
23 development plan approved in the ordinance rezoning this property
24 to Planned Development "PD". In the event, however, the property

1 described in Section 1 of this Ordinance is not rezoned by
2 ordinance to Planned Development "PD" within one (1) year of this
3 amendment becoming effective as provided in Section 8 of this
4 Ordinance, then the Planned Use District Category imposed by this
5 Ordinance shall be deemed null and void and of no further force
6 and effect and the Future Land Use Map shall be amended
7 accordingly upon proper notice.

8 **Section 5.** Ordinance No. 960936 that purported to amend the
9 land use on the property described in Section 1 of this ordinance
10 is repealed in its entirety and is of no further force and
11 effect.

12 **Section 6.** The City Manager is authorized and directed to
13 make the necessary changes in maps and other data in the City of
14 Gainesville 1991-2001 Comprehensive Plan, or element, or portion
15 thereof in order to comply with this ordinance.

16 **Section 7.** If any section, sentence, clause or phrase of
17 this ordinance is held to be invalid or unconstitutional by any
18 court of competent jurisdiction, then said holding shall in no
19 way affect the validity of the remaining portions of this
20 ordinance.

21 **Section 8.** All ordinances, or parts of ordinances, in
22 conflict herewith are to the extent of such conflict hereby
23 repealed.

EXHIBIT "A"

DESCRIPTION PARCEL 'A':

A PARCEL OF LAND LOCATED IN THE NW 1/4 OF SECTION 28, TOWNSHIP 9 SOUTH, RANGE 20 EAST, ALACHUA COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 28, TOWNSHIP 9 SOUTH, RANGE 20 EAST AND RUN SOUTH 89°08'12" WEST ON THE NORTH LINE OF SAID SECTION 28, A DISTANCE OF 3410.84 FEET; THENCE DEPARTING SAID NORTH LINE OF SECTION 28, RUN SOUTH 01°04'46" EAST, A DISTANCE OF 63.87 FEET TO THE NORTHEAST CORNER OF A MINOR SUBDIVISION AS RECORDED IN MINOR SUBDIVISION BOOK 1, PAGE 88, OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA, THE SAME POINT BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF STATE ROAD 222 AND THE POINT OF BEGINNING; THENCE NORTH 89°08'12" EAST, ON THE SOUTHERLY RIGHT OF WAY LINE OF SAID STATE ROAD 222, A DISTANCE OF 768.65 FEET; THENCE DEPARTING SAID SOUTHERLY RIGHT OF WAY LINE, RUN SOUTH 01°04'46" EAST, A DISTANCE OF 1214.62 FEET; THENCE RUN SOUTH 89°08'12" WEST, A DISTANCE OF 768.65 FEET; THENCE RUN NORTH 01°04'46" WEST, A DISTANCE OF 15.00 FEET TO THE SOUTHEAST CORNER OF THE AFOREMENTIONED MINOR SUBDIVISION; THENCE CONTINUE NORTH 01°04'46" WEST, ON THE EAST LINE OF THE AFOREMENTIONED MINOR SUBDIVISION, A DISTANCE OF 1199.66 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF STATE ROAD 222 AND THE POINT OF BEGINNING. PARCEL 'A' CONTAINS 21.377 ACRES OF LAND MORE OR LESS.

DESCRIPTION PARCEL 'B':

A PARCEL OF LAND LOCATED IN THE NW 1/4 OF SECTION 28, TOWNSHIP 9 SOUTH, RANGE 20 EAST, ALACHUA COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 28, TOWNSHIP 9 SOUTH, RANGE 20 EAST AND RUN SOUTH 89°08'12" WEST ON THE NORTH LINE OF SAID SECTION 28, A DISTANCE OF 3410.84 FEET; THENCE DEPARTING SAID NORTH LINE OF SECTION 28, RUN SOUTH 01°04'46" EAST, A DISTANCE OF 63.87 FEET TO THE NORTHEAST CORNER OF A MINOR SUBDIVISION AS RECORDED IN MINOR SUBDIVISION BOOK 1, PAGE 88, OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA, THE SAME POINT BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF STATE ROAD 222; THENCE RUN NORTH 89°08'12" EAST, ON SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 1533.30 FEET TO THE NORTHWEST CORNER OF HIGHLAND COURT MANOR UNIT NO. 5, A SUBDIVISION AS RECORDED IN PLAT BOOK H, PAGE 44, OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA; SAID POINT ALSO BEING THE POINT OF BEGINNING OF PARCEL 'B': THENCE RUN SOUTH 00°54'24" EAST ON THE WEST LINE OF THE AFOREMENTIONED SUBDIVISION, A DISTANCE OF 1808.54 FEET TO THE WEST LINE OF HIGHLAND COURT MANOR UNIT NO. 4, A SUBDIVISION AS RECORDED IN PLAT BOOK F, PAGE 77, OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA; THENCE CONTINUE SOUTH 00°54'24" EAST ON THE WEST LINE OF THE AFOREMENTIONED SUBDIVISION, A DISTANCE OF 523.03 FEET; THENCE DEPARTING SAID WEST LINE RUN SOUTH 89°13'01" WEST, A DISTANCE OF 784.29 FEET; THENCE RUN SOUTH 00°54'24" EAST, A DISTANCE OF 115.00 FEET; THENCE RUN SOUTH 89°24'01" WEST, A DISTANCE OF 741.85; THENCE RUN NORTH 01°04'46" WEST, A DISTANCE OF 1227.46 FEET; THENCE RUN NORTH 89°08'12" EAST, A DISTANCE OF 768.65 FEET; THENCE RUN NORTH 01°04'46" WEST, A DISTANCE OF 1214.62 FEET TO THE SOUTHERLY RIGHT OF WAY OF STATE ROAD 222; THENCE SOUTH 89°08'12" WEST ON SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 768.65 FEET TO THE POINT OF BEGINNING. PARCEL 'B' CONTAINS 62.41 ACRES OF LAND MORE OR LESS.

LAND USE

9159-

NE 39TH AVENUE

940'

250'

250'

200'

WAREHOUSING
655'

COMMERCIAL

1030'

MINOR SUBDIVISION
PLAT PSB

LOT 2
BA

8231-10-LOT

8231-75
BA

PAVEMENT BASEMENT

8231-55-3
NORTH MAIN STREET
COMMERCIAL PARK

8231-55-2
LOT 1

SINGLE
FAMILY
RESIDENTIAL

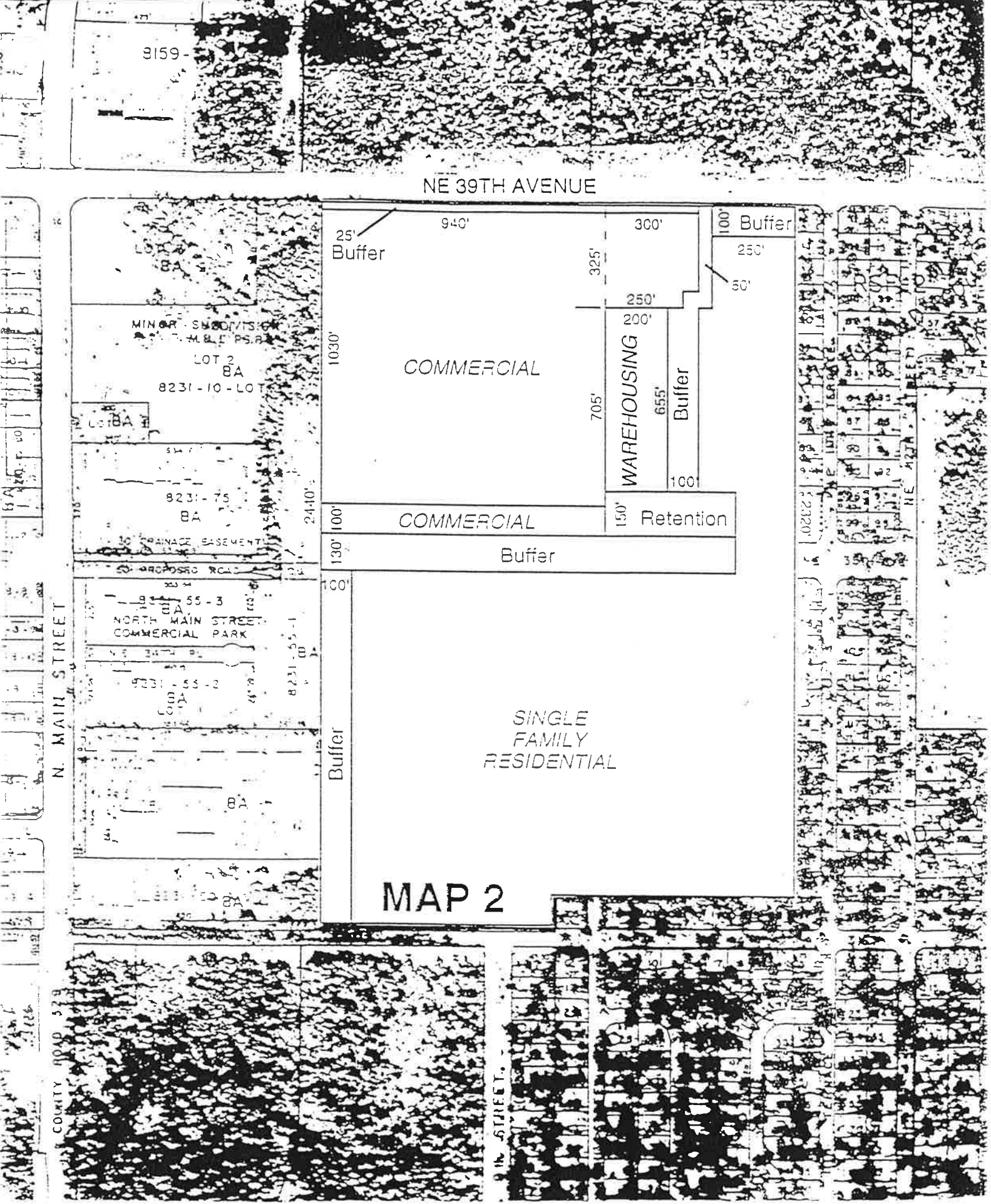
MAP 1

N. MAIN STREET

COUNTY ROAD 379

9th STREET

LAND USES, BUFFERS AND RETENTION



MAP 2

