



MEMORANDUM

Office of the City Attorney

Box 46

Phone: 334-5011/Fax 334-2229

TO: Mayor and City Commission

DATE: August 22, 2005

FROM: City Attorney

CITY ATTORNEY
SECOND READING

SUBJECT: Ordinance No. 0-05-05, Petition 167LUC-04PB

An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Map; by changing the land use category of certain property from "Single-Family (up to 8 units per acre)" to "Residential Low-Density (up to 12 units per acre); located in the vicinity of west of Northwest 43rd Street and north of Northwest 73rd Avenue; providing a severability clause; providing a repealing clause; and providing an effective date.

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

STAFF REPORT

The 2.37-acre subject property is within the approximately 300-acre, Blues Creek planned residential development, and is on the north side of N.W. 73rd Avenue, approximately one-quarter mile west of Northwest 43rd Street. The subject property is within the Blues Creek drainage basin, and is undeveloped and wooded. The property adjoins undeveloped conservation land to the north, east and west, and is proximate to single-family development across Northwest 73rd Avenue to the south. Single-family development of the Blues Creek development is to the north and west, beyond the adjacent conservation area. The Blues Creek clubhouse and swimming pool are also to the west of the conservation area.

The applicant proposes to change the land use designation of the property from SF (Single Family, up to 8 units per acre) to RL (Residential Low Density, up to 12 units per acre).

The subject property is adjacent to Single-Family (up to 8 units per acre) land use to the north and east, Single-Family and Conservation land use (farther east) to the east, and Alachua County Low Density (1-4 units per acre) land use to the south. The surrounding zoning is PD (Planned Development District) to the north, east and west, and Alachua County Low Density Residential (1-4 units per acre) (of the Sterling Place residential development) is to the south, across Northwest 73rd Avenue. Conservation zoning is east of the adjoining PD zoning to the east of the subject property.

Blues Creek was annexed from Alachua County in 2001-2002, and City of Gainesville land use and zoning was approved in 2003. Staff was unaware of the attached residential units for the subject 2.4-acre property when Single Family land use and PD zoning were approved for Blues

Creek. During review earlier this year of a proposed design plat for 16 lots on the subject property, the inconsistency between the existing Single Family land use, which does not allow attached residential units, and the PD zoning which allows attached units, became evident to staff. The proposed Residential Low-Density (up to 12 units per acre) designation allows for attached residential units, and will result in consistency between the future land use category and the underlying PD (Planned Development District) zoning for this 2.37-acre portion of Blues Creek.

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

This petition was filed after the second of two large-scale comprehensive plan amendment cycles for 2004, several months prior to the deadline for the first cycle for 2005. First reading of the ordinance adopting this petition has had to await the other large-scale plan amendment petitions of the first cycle of 2005. State law limits large-scale amendments to two times per calendar year.

Public notice was published in the Gainesville Sun on October 5, 2004. Letters were mailed to surrounding property owners on October 6, 2004. The Plan Board held a public hearing October 21, 2004. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board recommended that the City Commission approve Petition 167LUCC-04 PB. Plan Board vote 5-0.

CITY ATTORNEY MEMORANDUM


On April 11, 2005 the City Commission adopted Ordinance No. 0-05-05 (Petition No. 167LUC-04 PB, Future Land Use Element) on first reading for transmittal to the Department of Community Affairs (DCA).

The State of Florida Department of Community Affairs issued a letter dated June 20, 2005, stating that this amendment need not be formally reviewed for consistency with Chapter 163, F.S. The Department also waived preparing an Objections, Recommendations and Comments Report. A copy of their letter is attached to this memorandum. Therefore, the City may now proceed with the final adoption of this ordinance.

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The second hearing will be held at the adoption stage of the ordinance and must be advertised approximately five (5) days after the day that the second advertisement is published.

If adopted on second reading, the Plan amendment will not become effective until the State Department of Community Affairs 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



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

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

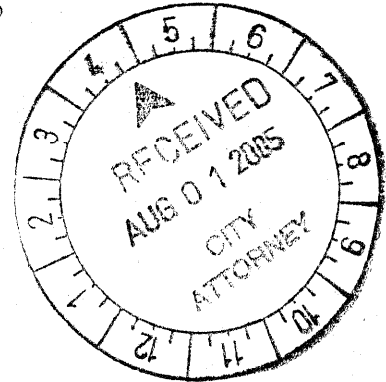
JEB BUSH
Governor

THADDEUS L. COHEN, AIA
Secretary

June 20, 2005

The Honorable Pegeen Hanrahan
Mayor, City of Gainesville
P.O. Box 490, Station 19
Gainesville, FL 32601-0490

Dear Mayor Hanrahan:



The Department of Community Affairs has completed its review of the proposed Comprehensive Plan Amendment for the City of Gainesville (DCA No. 05-1), which was received on April 21, 2005. The Department has reviewed the comprehensive plan amendment for consistency with Rule 9J-5, Florida Administrative Code (F.A.C.) and Chapter 163, Part II, Florida Statutes (F.S.) and has prepared the attached Objections, Recommendations, and Comments (ORC) Report which outlines our findings concerning the comprehensive plan amendment. Recommendations to address identified issues have been included and are designed to strengthen the amendment and help the community achieve its planning objectives, while complying with state law.

Attached to this letter is a summary of the procedures for the City to follow upon receipt of this letter in formulating a response to the attached ORC Report as it considers further action upon the proposed amendments up to and including adoption of these amendments. Copies of the proposed amendment have been distributed to appropriate state, regional and local agencies for their review and their comments are enclosed 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.

The proposed amendment consists of one (1) text amendment to Future Land Use Element (FLUE), two (2) Future Land Use Map (FLUM) amendments, and an update to the five-year schedule of capital improvements in the Capital Improvements Element (CIE).

The Department has no objections to the FLUM amendments or the proposed update to the five-year schedule of capital improvements. However, the Department has concerns regarding the text amendment to the Future Land Use Element. As proposed, the amendment would remove the intensity standard for the Office and Commercial future land use designation by allowing the current 5-story height limitation to be exceeded by Special Use Permit. While the Department commends the City on its commitment to the comprehensive planning process

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Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781
Internet address: <http://www.dca.state.fl.us>

The Honorable Mayor Hanrahan

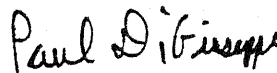
June 20, 2005

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and its dedication to preserving the urban form of Gainesville, while allowing flexibility for innovating planning techniques, the policies defining the City's future land use categories must contain predictable intensity standards.

I believe the concerns outlined in our report can be resolved in a straightforward manner. We are available to work with your staff to assist the City in responding to our concerns as outlined in the attached report and developing a mutually acceptable solution. If you or your staff have any questions about our attached Report or if we may be of further assistance as you formulate your response to this Report, please contact Ana Richmond, Senior Planner, at (850) 922-1794.

Sincerely,



Paul DiGiuseppe
Regional Planning Administrator

PD/ar

Enclosures: Transmittal Procedures
Review Agency Comments

cc: Mr. Charles Justice, Executive Director, North Central Florida Regional Planning Council
Mr. Dean Mimms, AICP, Chief of Comprehensive Planning City of Gainesville

D R A F T

February 1, 2005

ORDINANCE NO. _____
0-05-05

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3
4 **An ordinance amending the City of Gainesville 2000-2010**
5 **Comprehensive Plan, Future Land Use Map; by changing the**
6 **land use category of certain property from “Single-Family (up to**
7 **8 units per acre)” to “Residential Low-Density (up to 12 units**
8 **per acre); located in the vicinity of west of Northwest 43rd Street**
9 **and north of Northwest 73rd Avenue; providing a severability**
10 **clause; providing a repealing clause; and providing an effective**
11 **date.**

12
13
14 **WHEREAS**, publication of notice of a public hearing was given that the Future Land Use
15 Map be amended by changing the land use category of certain properties from “Single-Family (up
16 to 8 units per acre)” to “Residential Low-Density (up to 12 units per acre)”; and

17 **WHEREAS**, notice by the Plan Board was given and publication made as required by law
18 and a public hearing was held by the City Plan Board on October 21, 2004; and

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

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

D R A F T

February 1, 2005

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

4 **WHEREAS**, public hearings were held pursuant to the published notice described above at
5 which hearing the parties in interest and all others had an opportunity to be and were, in fact, heard.

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

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

10 **Section 1.** The Future Land Use Map of the City of Gainesville 2000-2010 Comprehensive
11 Plan is amended by changing the land use category of the following described property from
12 “Single-Family (up to 8 units per acre)” to “Residential Low-Density (up to 12 units per acre)”:

13 See legal description attached hereto as Exhibit "A", and made a part
14 hereof as if set forth in full.
15

16 **Section 2.** The City Manager is authorized and directed to make the necessary changes in
17 maps and other data in the City of Gainesville 2000-2010 Comprehensive Plan, or element, or
18 portion thereof in order to comply with this ordinance.

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

D R A F T

February 1, 2005

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

3 **Section 5.** This ordinance shall become effective immediately upon passage on second
4 reading; however, the effective date of this plan amendment shall be the date a final order is issued
5 by the Department of Community Affairs finding the amendment to be in compliance in accordance
6 with Chapter 163.3184, F.S.; or the date a final order is issued by the Administration Commission
7 finding the amendment to be in compliance in accordance with Chapter 163.3184, F.S.

8 **PASSED AND ADOPTED** this _____ day of _____, 2005.

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PEGEEN HANRAHAN, MAYOR

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

KURT LANNON,
CLERK OF THE COMMISSION

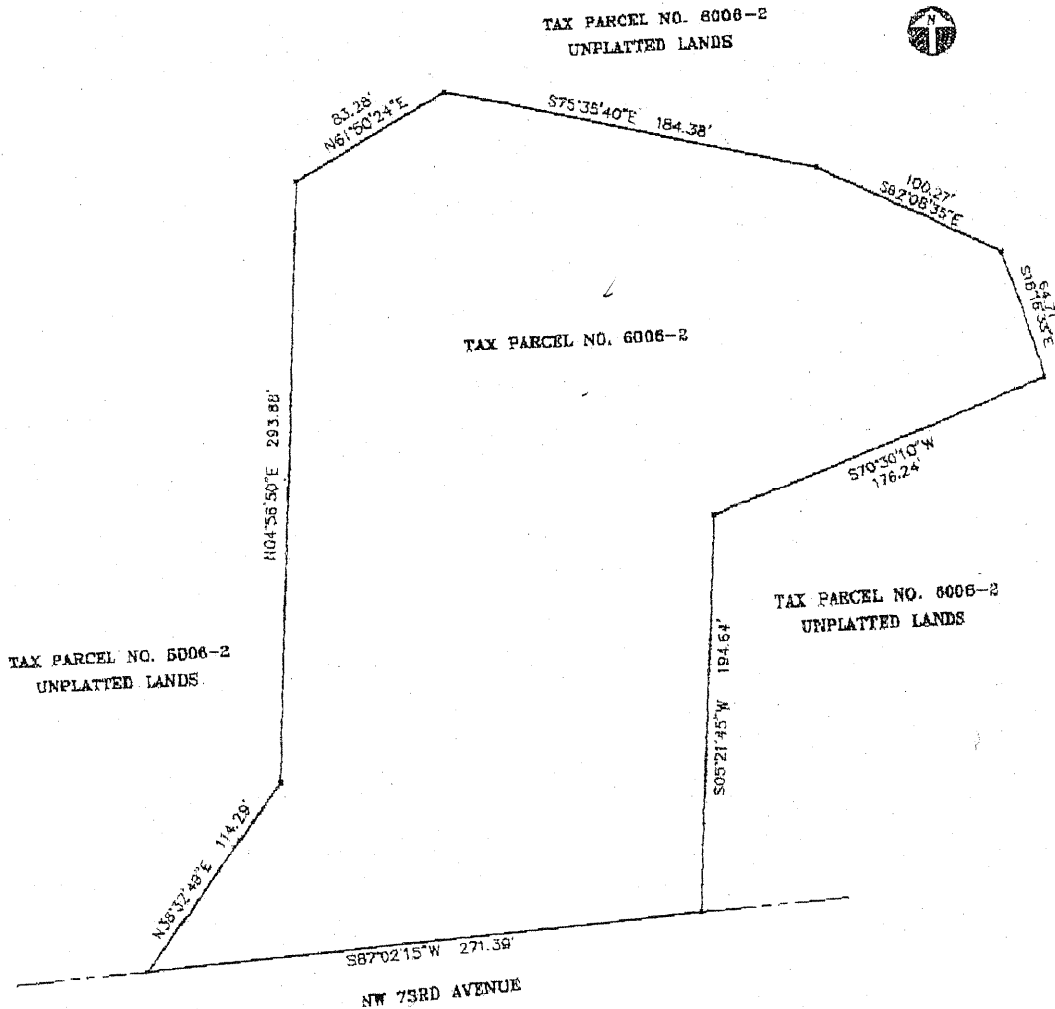
MARION J. RADSON, CITY ATTORNEY

This ordinance passed on first reading this ____ day of _____, 2005.

This ordinance passed on second reading this ____ day of _____, 2005.

LEGAL DESCRIPTION
 FOR A POINT OF REFERENCE COMMENCE AT THE
 NORTHWESTERLY POINT OF THE EXPANDED RIGHT OF WAY FOR
 N.W. 73RD AVENUE, BEING 10.00 FEET NORTH OF THE EAST
 TERMINUS OF CURVE "G" AS SHOWN ON THE RECORD PLAT OF
 BLUES CREEK UNIT-3A AS PER PLAT RECORDED IN PLAT BOOK
 "D" PAGES 48 AND 49 OF THE PUBLIC RECORDS OF ALACHUA
 COUNTY FLORIDA; THENCE N.87°02'15"E., ALONG THE NORTH
 RIGHT OF WAY LINE OF SAID N.W. 73RD AVENUE, A DISTANCE
 OF 106.54 FEET TO THE POINT OF BEGINNING; THENCE
 N.38°32'49"E., A DISTANCE OF 114.29 FEET; THENCE
 N.04°56'50"E., A DISTANCE OF 293.88 FEET; THENCE
 N.61°50'24"E., A DISTANCE OF 83.28 FEET; THENCE
 S.75°35'40"E., A DISTANCE OF 184.38 FEET; THENCE
 S.62°08'35"E., A DISTANCE OF 100.27 FEET; THENCE
 S.16°16'33"E., A DISTANCE OF 64.71 FEET; THENCE
 S.70°30'10"W., A DISTANCE OF 176.24 FEET; THENCE
 S.05°21'45"W., A DISTANCE OF 194.64 FEET, TO AN
 INTERSECTION WITH THE NORTH RIGHT OF WAY LINE OF SAID
 N.W. 73RD AVENUE; THENCE S.87°02'15"W., ALONG THE NORTH
 RIGHT OF WAY LINE OF SAID N.W. 73RD AVENUE, A DISTANCE
 OF 271.39 FEET TO THE POINT OF BEGINNING.
 CONTAINING 103,223.13 SQUARE FEET OR 2.3697 ACRES, MORE
 OR LESS.

END OF DESCRIPTION.



BOUNDARY & LEGAL DESCRIPTION
 BLUES CREEK UNIT 7

EXHIBIT "A"