



# MEMORANDUM

Office of the City Attorney

Legislative Item No. 000115

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

**TO:** Mayor and City Commission

**DATE:** July 10, 2000

FIRST READING

**FROM:** City Attorney

**SUBJECT:** Ordinance No. 0-00-75


An Ordinance of the City of Gainesville, Florida; imposing a temporary moratorium on building permits, zoning permits, site plan approvals or any other official action of the City of Gainesville permitting or having the effect of permitting the development of certain residential structures within any single-family residential zoning district inside the University of Florida Comprehensive Master Plan 1994-2004 Context Area in the City of Gainesville; providing a procedure for appeal and extraordinary hardship; providing a severability clause; and providing an immediate effective date.

---

Recommendation: The City Commission adopt the proposed ordinance.

The City Commission, at its meeting of June 26, 2000, authorized the City Attorney to prepare a moratorium ordinance.

Prepared and  
submitted by:

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

/afm

Attachment

**D R A F T**

06/29/00

ORDINANCE NO. \_\_\_\_\_  
0-00-75

1  
2  
3  
4       **An Ordinance of the City of Gainesville, Florida; imposing a**  
5       **temporary moratorium on building permits, zoning permits, site plan**  
6       **approvals or any other official action of the City of Gainesville**  
7       **permitting or having the effect of permitting the development of**  
8       **certain residential structures within any single-family residential**  
9       **zoning district inside the University of Florida Comprehensive**  
10       **Master Plan 1994-2004 Context Area in the City of Gainesville;**  
11       **providing a procedure for appeal and extraordinary hardship;**  
12       **providing a severability clause; and providing an immediate effective**  
13       **date.**

14  
15  
16       **WHEREAS**, on June 26, 2000, the Gainesville City Commission heard testimony about  
17 the dangers and threats to the public health, safety and welfare arising out of the continued  
18 proliferation of student rentals in single-family residential neighborhoods within the University  
19 of Florida Comprehensive (Campus) Master Plan 1994-2004 Context Area (“the Area”); and

20       **WHEREAS**, on-campus student housing at the University of Florida has for several  
21 years not kept pace with the growth in the number of students, causing students to seek housing  
22 in the Area; and

23       **WHEREAS**, the resulting increase in rentals in neighborhoods in the Area has caused  
24 increased problems with noise, automobile traffic, and trash and debris, that tend to destroy the  
25 integrity and character of the single-family neighborhoods in the Area; and

26       **WHEREAS**, the City of Gainesville adopted several ordinances in an attempt to protect  
27 the quality of life in its single-family neighborhoods; including a limitation on the number of  
28 unrelated persons residing in a single-family house, limitations on parking in yards, and stricter  
29 noise ordinances; and has increased its enforcement of these ordinances in the Area; and

30       **WHEREAS**, the City of Tallahassee has experienced an increase in the number of rental

# D R A F T

06/29/00

1 houses and "dormitory houses" i.e., houses that appear to meet the definition of single-family  
2 house but are intended to be rented to four or more students, that threaten the integrity and  
3 character of its single-family neighborhoods near Florida State University and Florida A & M  
4 University; and

5 **WHEREAS**, the City of Tallahassee is currently seeking amendments to its regulatory  
6 and land development codes to address the unique problems associated with dorm houses and  
7 dormitory houses; and

8 **WHEREAS**, the City of Gainesville desires to provide further protection for its single-  
9 family neighborhoods by amending its Land Development Code to prevent certain residential  
10 structures from being erected in the single-family neighborhoods within the Area; and

11 **WHEREAS**, the City Commission finds that it is in the best interest of the public health,  
12 welfare and safety to impose a temporary moratorium for a period of 182 days on the  
13 development of certain residential structures, as more specifically defined herein, in order to  
14 permit the orderly review, study and the implementation of any ordinances, resolutions or other  
15 action necessary to effectuate that review and study, and to prevent the issuance of permits or  
16 other actions during the moratorium period; and

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

22 **WHEREAS**, a second advertisement no less than two columns wide by 10 inches long  
23 was placed in the aforesaid newspaper notifying the public of the second public hearing to be

# D R A F T

06/29/00

1 held at the adoption stage at least five days after the day the second advertisement was published;  
2 and

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

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

8 Section 1. Purpose.

9 (a) The purpose of this Ordinance is to enable the City of Gainesville sufficient time to  
10 review, study, hold public hearings, and prepare and adopt an amendment or amendments to the  
11 City of Gainesville Code of Ordinances, including the Land Development Code, relating to  
12 development of certain residential structures, as more specifically defined herein, within the  
13 single-family residential zoning districts within the moratorium area in the City of Gainesville.  
14 During the aforesaid time period, the city will not take any action or issue any development order  
15 or permit which has the effect of allowing or permitting the development of those certain  
16 residential structures in the aforesaid zoning districts within the moratorium area of the City. It is  
17 not the purpose of this Ordinance to deny development orders and permits for other uses  
18 permitted by right or special use permit that must otherwise comply with all applicable codes,  
19 ordinances, regulations, and policies of the City of Gainesville and other regulatory agencies.

20 (b) It is further the purpose of this Ordinance to fulfill the City's constitutional charge and  
21 statutory obligations to protect and preserve the public health, welfare and safety of the citizens  
22 of the City of Gainesville, and in particular to protect the public health, welfare and safety of the  
23 citizens and value, use and enjoyment of property in the City of Gainesville during the interim

# D R A F T

06/29/00

1 period described in this Ordinance, and thus defer official governmental action until the City of  
2 Gainesville has properly reviewed, studied, held public hearings and proposed amendments to  
3 the City of Gainesville Code of Ordinances, as necessary.

4 **Section 2. Legislative Findings of Fact.** The City Commission of the City of Gainesville,  
5 Florida, finds and declares:

6 (a) That all the statements set forth in the preamble to this ordinance and Section 1 of this  
7 ordinance are true and correct.

8 (b) That there exists a need to impose a temporary moratorium as set forth hereinafter in  
9 order to protect the health, safety, and welfare of the citizens and property of Gainesville, by  
10 preserving the status quo during the period in which the City of Gainesville reviews, studies,  
11 holds public hearings, and adopts any amendments to the Gainesville Code of Ordinances, as  
12 may be necessary, with regard to the development of rental houses.

13 (c) That the City Commission of the City of Gainesville anticipates that persons or entities  
14 may seek to prevent the implementation of the commission's decision concerning the  
15 development of certain residential structures during the period the City conducts a review and  
16 study of the development of certain residential structures in the City of Gainesville, and adopts  
17 amendatory ordinances.

18 **Section 3. Definitions.**

19 (a) "application for development permit" means any application for a building permit, zoning  
20 permit, site plan approval, or other permit.

21 (b) "development order" means any order granting, denying, or granting with conditions an  
22 application for a development permit.

23 (c) "moratorium area" means all that real property in the City of Gainesville with the zoning

# D R A F T

06/29/00

1 categories of "Single-family Residential Districts" as identified in Section 30-51 of the Land  
2 Development Code and within the University of Florida Comprehensive (Campus) Master Plan  
3 1994-2004 Context Area. A map of the area is attached as Exhibit "A" and made a part of this  
4 Ordinance as if set forth in full.

5 (d) "dorm house" means a dwelling that, based upon the totality of factors, the City finds is  
6 designed for use or rental by more than one family as that term is defined in Sec. 30-23 of the  
7 Land Development Code. Factors include, but are not limited to, 4 or more separate sleeping  
8 quarters with bathrooms, multiple major appliances of any type (e.g., refrigerators, ranges,  
9 washers & dryers), multiple electrical, plumbing, and gas hookups for major appliances, and  
10 covered parking or garage spaces for more than 3 cars or trucks.

#### 11 **Section 4. Imposition of Moratorium.**

12 (a) For a period of 182 days from and after the adoption date of this ordinance, ending on  
13 Monday, January 22, 2001 or until the adoption of (an) amendment(s) to the Land Development  
14 Code that addresses the subject matter of this moratorium, whichever date occurs sooner:

15 (1) No application for development permit may be processed or reviewed by any  
16 department, board, commission, or agency of the City of Gainesville, for any dorm house  
17 located in the moratorium area, except as provided in Sections 5 and 6 of this ordinance.

18 (2) No development order may be issued for any dorm house in the moratorium area,  
19 except as provided in Sections 5 and 6 of this ordinance.

#### 20 **Section 5. Determination and Appeal**

21 The City Manager, or designee, shall determine whether an application for development  
22 permit is for a dorm house.

23 Any person who is aggrieved by the decision of the City Manager, or designee, may

# D R A F T

06/29/00

1 appeal the decision to the City Commission by filing an appeal within 20 days of the decision,  
2 and shall pay a fee of \$175.00 to cover processing and advertising costs. The appeal shall be  
3 ~~heard at the next regular meeting or at a special meeting held at least 14 days after the filing of~~  
4 the appeal. Written notice of the time and place of the hearing shall be mailed to the applicant,  
5 appellant and to all property owners within 400 feet of the subject property at least 10 days prior  
6 to the hearing. The Commission shall receive evidence and testimony and render a decision.  
7 The decision of the Commission shall be final.

## 8 **Section 6. Alleviation of Hardship**

9 (a) The City Commission of the City of Gainesville may authorize exceptions to the  
10 moratorium imposed by this ordinance when it finds, based upon substantial competent evidence  
11 presented to it, that deferral of action on an application for development permit and the deferral  
12 of the issuance of a development order for the duration of the moratorium would impose an  
13 extraordinary hardship on a landowner or lawful occupant of any land.

14 (b) A request for an exception based upon extraordinary hardship shall be filed with the City  
15 Manager or designee, including a fee of \$300.00, by the landowner to cover processing and  
16 advertising costs; shall include a recitation of the specific facts that are alleged to support the  
17 claim of extraordinary hardship; and shall contain such other information as the City Manager  
18 shall prescribe as necessary for the City Commission to be fully informed with respect to the  
19 application.

20 (c) A public hearing on any request for an exception for extraordinary hardship shall be held  
21 by the City Commission at the first regular meeting of the City Commission that occurs after the  
22 expiration of the period for publication of notice of the request for an exception.

23 (d) Notice of the filing of a request for an exception, and the date, time, and place of the

# D R A F T

06/29/00

1 hearing thereon shall be published once at least 10 days prior to said hearing in a newspaper of  
2 general circulation within the City limits of the City of Gainesville, Florida.

3 (e) In reviewing an application for an exception based upon a claim of extraordinary  
4 hardship, the City Commission shall consider the following criteria:

5 (1) The extent to which the applicant has, prior to June 26, 2000, made a substantial  
6 expenditure of money or resources in reliance upon permits or other approvals of the City  
7 of Gainesville directly associated with the dorm house by making physical improvements  
8 on the land, such as grading, installation of utility infrastructure or any other public  
9 improvements.

10 (2) Whether the applicant, prior to June 26, 2000, has contractual commitments in  
11 reliance upon permits or other approvals of the City of Gainesville to develop a dorm  
12 house in the moratorium area.

13 (3) Whether the applicant, prior to June 26, 2000, has in reliance upon permits or  
14 other approvals of the City of Gainesville incurred financial obligations to a lending  
15 institution which, despite a thorough review of alternative solutions, the applicant cannot  
16 meet unless the dorm house is allowed to be developed in the moratorium area.

17 (4) Whether the moratorium will expose the applicant to substantial monetary liability  
18 to third persons; or would leave the applicant completely unable, after a thorough review  
19 of alternative solutions, to earn a reasonable investment backed expectation on the  
20 property related to the development of the dorm house in the moratorium area.

21 (f) At the conclusion of the Public Hearing and after reviewing the evidence and testimony  
22 placed before it, the City Commission shall act upon the request either to approve, deny, or  
23 approve in part and deny in part the request made by the applicant.



**D R A F T**

06/29/00

1 **Section 7.** If any word, phrase, clause, paragraph, section or provision of this ordinance or  
2 the application thereof to any person or circumstance is held invalid or unconstitutional, such  
3 ~~finding shall not affect the other provisions or applications of the ordinance which can be given~~  
4 effect without the valid or unconstitutional provisions or application, and to this end the  
5 provisions of this ordinance are declared severable.

6 **Section 8.** This ordinance shall become effective immediately upon final adoption.

7 **PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

8  
9

\_\_\_\_\_  
PAULA M. DeLANEY  
MAYOR

14 **ATTEST:**

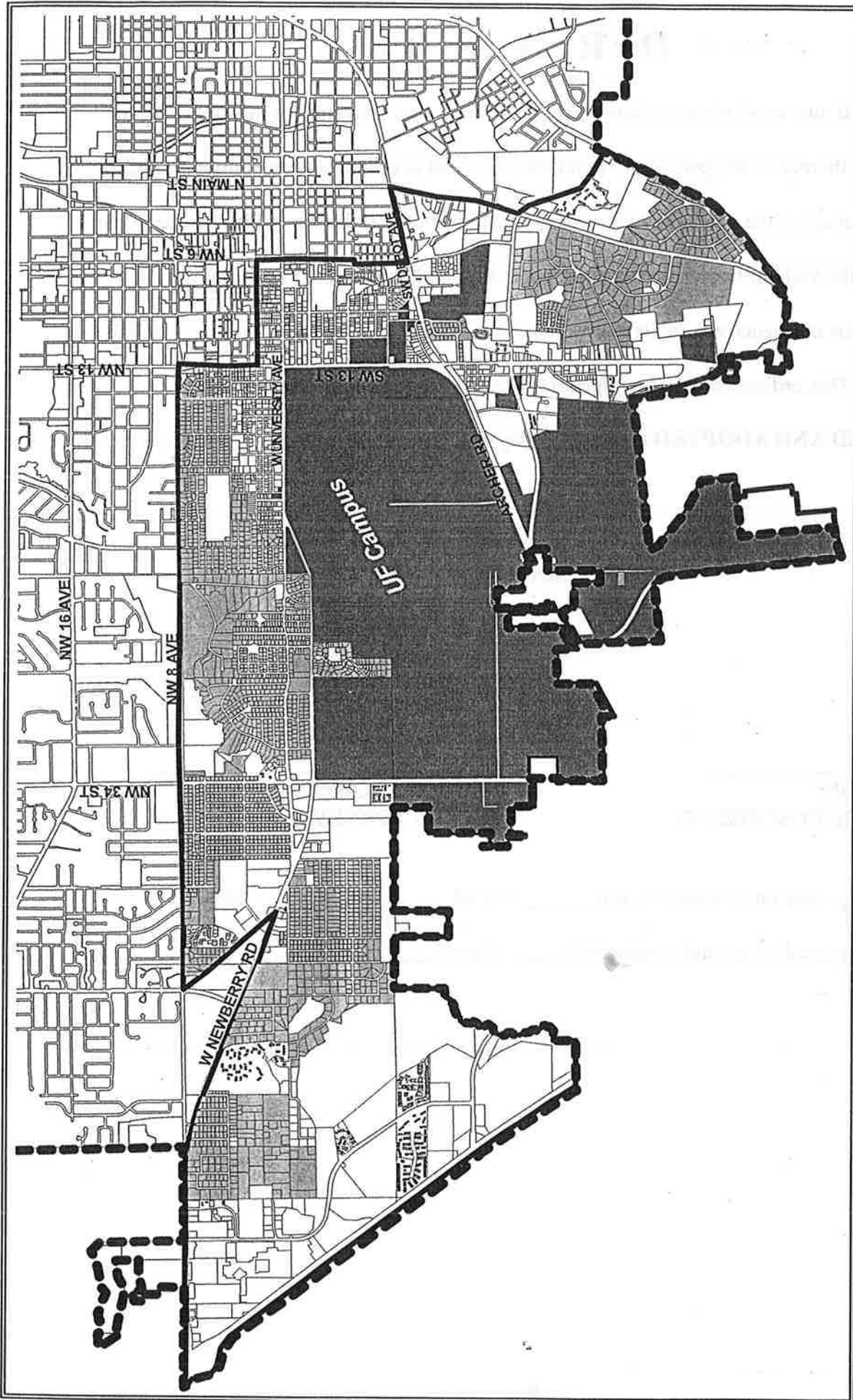
Approved as to form and  
legality:

18 \_\_\_\_\_  
19 KURT LANNON  
20 CLERK OF THE COMMISSION

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





23 This ordinance passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

25 This ordinance passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2000.



**EXHIBIT**  
A

**Key to Features**

-  SF Parcels in UF Context area (RSF-1, RSF-2, RSF-3, RSF-4)
-  UF Context Area
-  UF Campus Boundary
-  City Boundary

N

3000 0 3000 6000 Feet