



# MEMORANDUM

Office of the City Attorney

LEGISLATIVE ITEM NO. 070542

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

**TO:** Mayor and City Commission

**DATE:** January 14, 2008

**FROM:** City Attorney

**CITY ATTORNEY  
FIRST READING**

**SUBJECT:** Ordinance No. 0-07-91, Petition No. 95PDA-07PB  
An Ordinance of the City of Gainesville, Florida; amending Ordinance No. 2604, that adopted the Planned Development commonly known as "A Child's Place" located in the vicinity of 4127 Northwest 34<sup>th</sup> Street; providing for the reduction of the lot size of the existing planned development; adopting revised development plan maps and a revised planned development report; amending and adopting additional conditions and restrictions; providing for penalties; providing a severability clause; providing a repealing clause; and providing an effective date.

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Recommendation: The City Commission adopt the proposed ordinance.

## COMMUNITY DEVELOPMENT STAFF REPORT

This is request to reduce the lot size in an existing PD (Planned Development) to facilitate the development of Fire Station No. 8. The subject property is the site of A Child's Place child care facility. It consists of one tax parcel of land that is 4.04 acres (MOL) in size. Lots zoned RSF-2 (single-family residential district) and occupied by single-family dwellings abuts on the north and east. A 6-foot wide strip of land zoned PD abuts the property on the south and separates the subject property from additional lots that are zoned RSF-2 and occupied by single-family dwellings. Northwest 34th Street abuts on the west. The land use designation is PUD (Planned Use District).

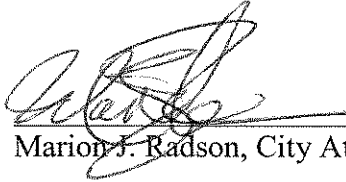
In 1981, the City adopted the PD (Planned Development) zoning on the subject property by ordinance (Ordinance No. 2604). The purpose of this petition is to amend the ordinance, which consists of a development plan map, a development plan report dated February 4, 1981, and an addendum to the development plan report dated March 25, 1981. The amendment will reduce the total acreage of the subject property zoned PD to 1.97 acres (MOL), so that the remaining portion can be used for the construction of a City fire station and associated right-of-way. These improvements will require a lot split approval, and the approval of a land use and zoning change for the fire station site, under the related petitions noted above. The remaining parcel and the permitted daycare center will continue to meet and comply with the standards of the PD.

The City Plan Board considered the above-referenced petition at a public hearing held September 20, 2007. By a vote of 7 - 0, the City Plan Board approved Petition 95PDA-07PB with staff conditions and the condition that the City Plan Board review the associated development plan for preliminary approval.

CITY ATTORNEY MEMORANDUM

The City Commission, at its meeting of October 22, 2007, authorized the city attorney's office to prepare and advertise the necessary ordinance amending the planned development known as "A Child's Place".

Prepared and Submitted by:

A handwritten signature in black ink, appearing to read "Marion J. Radson", is written over a horizontal line.

Marion J. Radson, City Attorney

MJR/afm

Attachment

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D R A F T

12/4/2007

ORDINANCE NO. \_\_\_\_\_  
0-07-91

An Ordinance of the City of Gainesville, Florida; amending Ordinance No. 2604, that adopted the Planned Development commonly known as "A Child's Place" located in the vicinity of 4127 Northwest 34<sup>th</sup> Street; providing for the reduction of the lot size of the existing planned development; adopting revised development plan maps and a revised planned development report; amending and adopting additional conditions and restrictions; providing for penalties; providing a severability clause; providing a repealing clause; and providing an effective date.

**WHEREAS**, the City Commission, on June 29, 1981, adopted Ordinance No. 2604, that rezoned certain real property which is the subject of this Ordinance, to Planned Development, and adopting a certain Development Plan; and

**WHEREAS**, the owner/petitioner has petitioned the City to amend the planned development for the reduction of the lot size of the existing development; and to make certain amendments to the planned development as more specifically provided herein; and

**WHEREAS**, notice was given and publication made as required by law of a Public Hearing which was then held by the City Plan Board on September 20, 2007; and

**WHEREAS**, notice was given and publication made of a Public Hearing which was then held by the City Commission on October 22, 2007; and

**WHEREAS**, the City Commission finds that the amendment of the Planned Development District ordinance is consistent with the City of Gainesville 2000-2010 Comprehensive Plan.

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12/4/2007

1       **WHEREAS**, at least ten (10) days notice has been given once by publication in a  
2 newspaper of general circulation prior to the adoption public hearing notifying the public of this  
3 proposed ordinance and of a Public Hearing in the City Commission Meeting Room, First Floor,  
4 City Hall, in the City of Gainesville; and

5       **WHEREAS**, pursuant to law, notice has also been given by mail to the owners whose  
6 properties will be regulated by the adoption of this Ordinance, thirty days prior to the adoption of  
7 this ordinance; and

8       **WHEREAS**, Public Hearings were held pursuant to the published and mailed notices  
9 described at which hearings the parties in interest and all others had an opportunity to be and were,  
10 in fact, heard.

11       **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**  
12 **CITY OF GAINESVILLE, FLORIDA:**

13       **Section 1.** The legal description provided in Section 1 of Ordinance No. 2604 is amended  
14 by the adoption of a new legal description attached hereto as Exhibit "A" and made a part hereof as  
15 if set forth in full. The property described in Exhibit "A" shall retain the zoning classification of  
16 "Planned Development".

17       **Section 2.** The "development plan report" dated February 4, 1981, and "An Addendum to  
18 Development Plan" dated March 25, 1981 attached to Ordinance No. 2604, is amended by the  
19 adoption of a new "Addendum to Development Plan Report for A Child's Place" dated August 13,  
20 2007, attached hereto as Exhibit "B" and made a part hereof as if set forth in full. The Addendum  
21 ("Exhibit B") shall regulate the development and use of the property, and shall govern and prevail

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1 over the “development plan report” and “addendum to development plan”, attached to Ordinance  
2 No. 2604, to the extent of any conflict.

3       **Section 3.** The “development plan map” dated February 4, 1981 attached to Ordinance No.  
4 2604 is repealed in its entirety, and a new development plan map marked “Plan Revised October  
5 30, 2007, is approved and adopted and made a part of this ordinance as if set forth in full as Exhibit  
6 “C”. The terms, conditions, and limitations of the Development Plan (all reports and maps) shall  
7 regulate the use and development of the land described herein zoned to the category of Planned  
8 Development District as provided in Chapter 30, Land Development Code of the City of  
9 Gainesville (hereinafter referred to as “Land Development Code”). In the event of conflict between  
10 the provisions of the development plan report (the development plan report and the “Addendum to  
11 Development Plan Report for a Child’s Place” attached to Ordinance No. 2604, and Exhibit “B”  
12 attached hereto) and the development plan map (Exhibit “C”), the provisions, regulations, and  
13 restrictions of the development plan map (Exhibit “C”) shall govern and prevail. Except as  
14 modified herein, all of the conditions of the previously approved Planned Development and  
15 amendments thereto shall remain in effect.

16       **Section 4.** If it is determined by the City Manager that a violation of this Ordinance exists,  
17 the City Manager may issue and deliver an order to cease and desist from such violation and to  
18 correct the violation, to preclude occupancy of the affected building or area, or to vacate the  
19 premises. The City Manager, through the City Attorney, may seek an injunction in a court of  
20 competent jurisdiction and seek any other remedy available at law.

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1       **Section 5.** Any person who violates any of the provisions of this ordinance shall be deemed  
2       guilty of a municipal ordinance violation, and shall be subject to fine or imprisonment as provided  
3       by section 1-9 of the Gainesville Code of Ordinances. Each day a violation occurs or continues,  
4       regardless of whether such violation is ultimately abated or corrected, shall constitute a separate  
5       offense.

6       **Section 6.** If any word, phrase, clause, paragraph, section or provision of this ordinance  
7       or the application hereof to any person or circumstance is held invalid or unconstitutional, such  
8       finding shall not affect the other provisions or applications of the ordinance which can be given  
9       effect without the invalid or unconstitutional provisions or application, and to this end the  
10      provisions of this ordinance are declared severable.

11      **Section 7.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of  
12      such conflict hereby repealed.

13      **Section 8.** This ordinance shall become effective immediately upon final adoption;  
14      however, the planned development amendment shall not become effective until the amendment  
15      to the City of Gainesville 2000-2010 Comprehensive Plan adopted by Ordinance No. 070543

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becomes effective as provided therein.

**PASSED AND ADOPTED** this                      day of                      , 2008.

\_\_\_\_\_  
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                      , 2008.

This ordinance passed on second reading this      day of                      , 2008.

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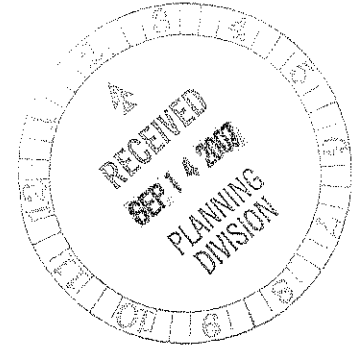
A PORTION OF THE NORTH 288 FEET OF THE WEST 660 FEET  
OF THE SOUTHWEST QUARTER OF THE SOUTHWEST  
QUARTER (SW 1/4 OF SW 1/4) OF SECTION 24, TOWNSHIP 9  
SOUTH, RANGE 19 EAST, ALACHUA COUNTY, FLORIDA,  
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE  
AFOREMENTIONED SECTION 24 AND RUN N.00°19'33"E.,  
ALONG THE WEST LINE OF SAID SECTION 24, A DISTANCE  
OF 1325.74 FEET TO THE NORTHWEST CORNER OF SAID SW  
1/4 OF SW 1/4; THENCE RUN S.89°42'03"E., ALONG THE  
NORTH LINE OF SAID SW 1/4 OF SW 1/4, A DISTANCE OF  
50.00 FEET TO THE EAST RIGHT OF WAY LINE OF N. W. 34TH  
STREET (STATE ROAD NO. 121- 100' RIGHT OF WAY);  
THENCE, DEPARTING SAID RIGHT OF WAY LINE, CONTINUE  
S.89°42'03"E., ALONG SAID NORTH LINE OF THE SW 1/4 OF  
SW 1/4, A DISTANCE OF 522.64 FEET; THENCE RUN  
S.00°19'33"W., PARALLEL WITH SAID WEST LINE OF SECTION  
24, A DISTANCE OF 103.00 FEET; THENCE RUN N.89°42'03"W.,  
PARALLEL WITH SAID NORTH LINE OF SW 1/4 OF SW 1/4, A  
DISTANCE OF 162.64 FEET TO THE POINT OF BEGINNING;  
THENCE RUN S.00°19'33"W., PARALLEL WITH SAID WEST  
LINE OF SECTION 24, A DISTANCE OF 185.00 FEET; THENCE  
RUN N.89°42'03"W., ALONG THE SOUTH LINE OF THE NORTH  
288 FEET OF SAID SW 1/4 OF SW 1/4, A DISTANCE OF 360.00  
FEET TO THE AFOREMENTIONED EAST RIGHT OF WAY LINE  
OF S. W. 34TH STREET; THENCE RUN N.00°19'33"E., ALONG  
SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 238.00  
FEET; THENCE, DEPARTING SAID RIGHT OF WAY LINE, RUN  
S.89°42'03"E., PARALLEL WITH SAID NORTH LINE OF SW 1/4  
OF SW 1/4, A DISTANCE OF 360.00 FEET; THENCE RUN  
S.00°19'33"W., PARALLEL WITH SAID WEST LINE OF SECTION  
24, A DISTANCE OF 53.00 FEET TO THE POINT OF  
BEGINNING.





13 August 2007



Rory P. Causseaux, P.E.  
President

Kevin W. Hewett, P.L.S.  
Vice President - Surveying

Robert J. Walpole, P.E.  
Vice President -  
Engineering & Planning

Addendum to  
Development Plan Report for  
A Child's Place  
4127 Northwest 34th Street  
Gainesville, Florida 32605

The current owners of A Child's Place are working with the City of Gainesville Fire Rescue Department to allow for a fire station on a portion of the property described by the legal description of the ordinance. As part of the process, a revised legal description for the PD has been submitted as a PD amendment. While the adopted development plan map does not address this portion of the site, a revised development plan has been submitted which allows for a portion of the entire parcel to be used for future right-of-way.

This addendum is submitted to provide an accurate reflection of the statistical information as shown on the revised development plan.

1. Total Acreage	1.97 Acres
2. Building Coverages	5.9 %
3. Impervious Ground Coverages	13.3 %
4. Residential Density	0
5. Dwelling Units	0
6. Commercial Land Use	
Existing Business	3270 s.f.
Residence Conversion	<u>1797 s.f.</u>
Total	5067 s.f.
7. Specific Acreage per use	
Existing Business	1.97 Acres
8. Land Dedicated to Public	0

All other applicable portions of the development plan shall remain in force and effect as though no change has occurred.

6011 NW 1<sup>st</sup> Place  
Gainesville, Florida 32607  
Phone: (352) 331-1976  
Fax: (352) 331-2476  
www.chw-inc.com

## EXHIBIT "B"

## **EXHIBIT "C"**

(Due to bulk and size, Exhibit "C" is not attached, but is on file in the Office of the Clerk of the Commission.)