

ORDINANCE NO. 100897

1
2
3 **An Ordinance of the City of Gainesville, Florida; rezoning**
4 **certain lands within the City, as more specifically described in**
5 **this ordinance; by amending the Zoning Map Atlas to change**
6 **the zoning districts from "General business district (BUS)",**
7 **"Automotive-oriented business district (BA)", "Mixed use low**
8 **intensity district (MU-1)" and "Residential low density district**
9 **(RMF-5)" to "Planned Development (PD)" on certain property**
10 **located at 303 Northwest 13th Street, 1249 and 1227 Northwest**
11 **4th Avenue commonly referred to as "Gainesville Mixed-Use on**
12 **NW 13th Street PD"; adopting a development plan report and**
13 **development plan maps; providing conditions, restrictions and**
14 **regulations; providing for enforcement; providing a**
15 **severability clause; and providing an effective date.**
16

17
18 **WHEREAS**, by initiation of a petition by the property owner, publication of notice of a
19 public hearing was given that the Zoning Map Atlas be amended by rezoning certain property
20 within the City from the zoning districts of "General business district (BUS)", "Automotive-
21 orientated business district (BA)", "Mixed use low intensity district (MU-1)" and "Residential
22 low density district (RMF-5)" to "Planned Development (PD)"; and

23 **WHEREAS**, notice was given and publication made as required by law of a public hearing
24 which was then held by the City Plan Board on March 24, 2011; and

25 **WHEREAS**, notice was given and publication made of a public hearing which was then
26 held by the City Commission on May 5, 2011; and

27 **WHEREAS**, at least ten (10) days notice has been given once by publication in a
28 newspaper of general circulation prior to the public hearings notifying the public of this proposed
29 ordinance and of public hearings in the City Commission Meeting Room, First Floor, City Hall,
30 in the City of Gainesville; and

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

3 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
4 **CITY OF GAINESVILLE, FLORIDA:**

5 **Section 1.** The Zoning Map Atlas of the City of Gainesville is amended by rezoning the
6 following described property from the zoning districts of "General business district (BUS)",
7 "Automotive-oriented business district (BA)", "Mixed use low intensity district (MU-1)" and
8 "Residential low density district (RMF-5)" to "Planned Development (PD)";

9 See legal description attached hereto as Exhibit "A", and made a part hereof as if set
10 forth in full. For visual reference, the location of the property is shown on Exhibit
11 "B". In the event of conflict or inconsistency, Exhibit "A" shall prevail.
12
13

14 **Section 2.** The City Manager or designee is authorized and directed to make the
15 necessary change in the Zoning Map Atlas to comply with this Ordinance.

16 **Section 3.** The use and development of the land described herein zoned Planned
17 Development shall be governed by the terms, conditions, and limitations of this Ordinance and
18 shall be consistent with the Planned Use District Ordinance No. 100896, adopted on January 5,
19 2012. Exhibits "A" through "D-2" are attached, incorporated and adopted as a part of this
20 ordinance as if set forth in full in the text of this ordinance. In the event of conflict or
21 inconsistency, the order of precedence shall be the order listed below, with number (1) taking
22 precedence over number (2) and so on.

23 (1) The Planned Development conditions set forth in Section 4 of this Ordinance;

- 1 (2) The Development Plan Maps consisting of: (a) “Existing Conditions Map Series”
 2 (4 sheets) dated April 7, 2010 attached as Exhibit “D-1”; and (b) “PD Layout
 3 Plan Maps” consisting of a PD Layout Plan (one sheet) dated resubmittal
 4 November 9, 2011 and elevations and cross sections (7 sheets) dated February 3,
 5 2011, attached as Exhibit “D-2”;
- 6 (3) The Development Plan Report titled “Gainesville Mixed Use on NW 13th Street –
 7 PD Report” dated revised November 15, 2011, attached as Exhibit “C”; and,
- 8 (4) The City’s Land Development Code.

9 **Section 4.** The following conditions, restrictions and regulations shall apply to the
 10 development and use of the property zoned Planned Development:

11 Condition 1. The permitted uses by right are as listed below. The GN, MG and Div.
 12 numbers are references to the Standard Industrial Code Classification of Uses, 1987
 13 Edition and the references to articles are to the requirements stated in that article as set
 14 forth in the City’s Land Development Code, as may be amended or renumbered from time
 15 to time.

SIC	Uses	Conditions
	Row houses	
	Multi-family dwellings (up to 100 units per acre).	An additional 25 units per acre may be added by special use permit
	Incidental residential accessory uses, including storage rooms, management offices, club or game rooms, and recreational and laundry facilities intended for use solely by the residents of the developments and their guests.	
	Consolidated apartment management offices	
	Bed and breakfast establishment	In accordance with article VI
	Day care center	In accordance with article VI
	Places of religious assembly	In accordance with article VI
	Outdoor cafes	In accordance with article VI

	Eating places	
	Research and Development in the Physical, Engineering and Life Sciences	
GN-074	Veterinary services	Only within enclosed buildings and in accordance with article VI
MG-43	U.S. Postal Service	
GN-471	Arrangement of passenger transportation	Offices only, with no operation of passenger tours on site.
MG-53	General merchandise stores	
MG-54	Food stores	Excluding gasoline pumps
MG-56	Apparel and accessory stores	
MG-57	Home furniture, furnishing, and equipment stores	
MG-59	Miscellaneous retail	Excluding GN598 Fuel Dealers
Div. H	Finance, insurance and real estate	Excluding cemetery subdividers and developer (IN-6553)
MG-72	Personal services	Including funeral services and crematories in accordance with article VI and excluding industrial laundries (IN-7218)
MG-73	Business services	Excluding outdoor advertising services (IN-7312), disinfecting and pest control services (IN-7342), heavy construction equipment rental and leasing (IN7353), and equipment rental and leasing, not elsewhere classified (IN-7359)
GN-525	Hardware stores	
GN-701	Hotels and motels	
GN-752	Automobile parking	
MG-78	Motion picture	
MG-80	Health services	
MG-81	Legal services	
MG-82	Educational services	
MG-84	Museums, art galleries, and botanical and zoological gardens	
MG-86	Membership organization	
MG-87	Engineering, accounting, research, management, and related services	

1 Condition 2. The permitted uses shall be further restricted within Zones A, B and C as
2 depicted and described in the PD Layout Plan and the PD report.

3
4 Condition 3. Drive-through facilities are prohibited. Drive-through facilities are defined
5 as facilities that provide services mechanically or personally to customers who do not exit
6 their vehicles, examples include, but are not limited to, banking facilities, payment
7 windows, restaurant, food and/or beverage sales, dry cleaning and express mail services.
8 The following are not considered drive-through facilities: auto fuel pumps and
9 depositories which involve no immediate exchange or dispersal to the customer, such as
10 mail boxes, library book depositories, and recycling facilities.

11
12 Condition 4. The location of buildings shall be located as shown on the PD Layout
13 Plan. Minor shifts in building location (up to ten feet) may be authorized during
14 development plan review, consistent with other requirements. No structures are allowed
15 within Zone B as shown on the PD Layout Plan.

16
17 Condition 5. The building shall be constructed with the exterior design as generally
18 depicted in the elevations in the PD Layout Plan Maps. The exterior building material
19 shall be brick on the first and second floors of the building and a combination of brick,
20 precast, cast stone or stucco on the third floor and above. The roofing material shall be
21 metal. The façade of the parking structure shall be designed to be consistent with the
22 general design, texture, and colors of the principal buildings. The owner/developer shall
23 provide color elevations with notations as to building materials for review and approval
24 during development plan review.

25
26 Condition 6. The development shall meet the Community Redevelopment Agency
27 streetscape standards that are in effect at the time of development plan review for the
28 design and materials for sidewalks, crosswalks, handicap ramps, bicycle racks, and other
29 relevant streetscape fixtures. The location of elements of the streetscape (street trees,
30 sidewalk, outdoor cafés and bus shelters) shall be generally as depicted on the street cross
31 sections in the PD Layout Plan Maps. A minimum unobstructed width of 5 feet shall be
32 maintained along all street sidewalks.

33
34 Condition 7. Bicycle parking spaces shall be provided along the streets and in
35 appropriate locations internal to the site, at a rate of 1 space per every 4 bedrooms and 1
36 space per every 2000 feet of commercial or office floor area. The development shall also
37 provide a minimum of 10 scooter spaces.

38
39 Condition 8. On all three street frontages, buildings shall provide a minimum of 50%
40 glazing within the area between 3' and 8' above grade. This required glazing must be
41 80% transparent and shall not utilize painted glass, reflective glass or other similarly

1 treated windows. Entrances with glazing may be counted toward meeting this minimum
2 glazing requirement.

3
4 Condition 9. Individual uses on the ground floor shall provide functional entrances that
5 face the street.

6
7 Condition 10. The 56-inch diameter Live Oak tree shall be preserved on the property
8 within a surrounding unpaved area of at least 400 square feet and with such other
9 requirements of the City as are set forth during development plan review. The surface
10 parking spaces and drive aisle adjacent to the tree shall utilize pervious pavement. If
11 deemed necessary by the City Manager or designee during development plan review, the
12 development shall provide an air-water exchange system designed to provide water and
13 air to the tree roots beneath the pavement.

14
15 Condition 11. Shade street trees as listed in the Gainesville Tree List (reaching at least 40
16 feet in height at maturity) shall be planted every 30 foot on average along the streets
17 abutting the PD. Understory trees may be substituted for shade trees within the canopy
18 area of the 56-inch diameter Live Oak tree.

19
20 Condition 12. The vehicular entrances to the parking garage shall be located as shown on
21 the elevations in the PD Layout Plan Maps. No vehicular access is permitted from NW
22 13th Street.

23
24 Condition 13. A minimum 4-foot wide pedestrian pathway shall be provided through the
25 parking garage vehicular access in order to connect the sidewalks on NW 3rd Avenue and
26 NW 4th Avenue.

27
28 Condition 14. A garden wall, with a minimum height of 8 feet, shall be constructed
29 along the eastern property lines and along property lines where surface parking is adjacent
30 to the street. The material of the wall shall be primarily brick, but may also incorporate
31 stucco or cement materials, as reviewed and approved during development plan review.
32 The wall shall be architecturally compatible with the adjacent development within the
33 historic district and with the buildings constructed on the property.

34 Condition 15. The owner/developer shall at its expense, install an FDOT approved traffic
35 separator on NW 13th Street from NW 3rd Avenue to NW 5th Avenue along the existing
36 center turn lane. The traffic separator will generally be a 2-foot-wide concrete separator
37 for the entire length with a full width median separator at the center of the block for a
38 distance of approximately 100 feet. The final design of the traffic separator shall be
39 subject to review and approval by the FDOT by permit.
40

1 Condition 16. Prior to receiving a certificate of occupancy, the owner/developer shall
 2 improve NW 12th Drive from NW 4th Avenue to NW 5th Avenue as stated below. These
 3 improvements are required due to operational or safety issues and will not count toward
 4 TCEA program requirements or other transportation mitigation program requirements.

5
 6 (1) The developer shall evaluate whether the typical section including
 7 pavement widths, thickness and the non-curbed condition can support the
 8 projected traffic loading for two-way travel. If found to be insufficient, the
 9 typical section shall be widened and a structural course overlay and
 10 curbing of the entire roadway length may be required.

11
 12 (2) A 6-foot-wide sidewalk shall be installed along one side of the street.

13
 14 (3) The northern terminus (approximately 25 feet) of the roadway shall be re-
 15 graded to eliminate the valley gutter and dip. Type F curb-and-gutter
 16 radius returns shall be installed at the intersection with NW 5th Ave.

17
 18 Condition 17. Due to the development's location in the University of Florida Context
 19 Area, prior to the second reading of this Ordinance, the owner/developer shall sign a
 20 Context Area Transit Agreement for the 168 multi-family units that meets the
 21 Concurrency Management Element Policy 1.1.14 requirements. In the event that multi-
 22 family units are substituted for non-residential square footage as allowed by the PUD
 23 ordinance, the owner/developer shall execute a new or amended Context Area Transit
 24 Agreement for the net, new multi-family units prior to issuance of the final development
 25 order.

26
 27 Condition 18. Plans depicting construction staging areas must be provided during
 28 development plan review. Construction staging shall be contained on the property to the
 29 extent possible. The owner/developer shall notify the construction contractors that all
 30 construction vehicles shall enter the site only from NW 3rd Avenue or NW 4th Avenue via
 31 NW 13th Street, as approved by the City Public Works Department, and shall not travel to
 32 or from the site along the neighborhood streets to the east of the site.

33
 34 Condition 19. If completion of the footer and vertical construction has not commenced
 35 within one year after the existing buildings have been removed from the site, the site shall
 36 be planted with grass and properly maintained.

37
 38 **Section 5.** The Planned Development is valid for a period of five years from the date
 39 of final adoption of the Ordinance. The City Commission may grant an extension, up to two
 40 additional years, if a request for good cause is filed in writing with the Clerk of the Commission

1 at least 60 days prior to the expiration date. The City Commission shall be the sole arbiter of
2 good cause and its decision shall be final. The development order approved by this PD
3 Ordinance shall expire and be deemed null and void after the five-year period unless an extension
4 is granted by the City Commission. During the period the PD is valid, the owner/developer must
5 obtain final development plan approval. The owner/developer must file for a building permit
6 within two years of the date of the final development plan approval. After a building permit is
7 issued, the development order granted by this Ordinance shall remain valid for the development
8 authorized by the building permit, provided the building permit remains valid and active. If the
9 five year period has elapsed and the building permit expires, the development order granted by
10 this Ordinance shall be null and void. If the development order granted by this Ordinance
11 becomes null and void, then the City will designate other appropriate zoning consistent with the
12 Comprehensive Plan.

13 **Section 6.** Any person who violates any of the provisions of this ordinance shall be deemed
14 guilty of a municipal ordinance violation, and shall be subject to fine or imprisonment as provided
15 by section 1-9 of the Gainesville Code of Ordinances. Each day a violation occurs or continues,
16 regardless of whether such violation is ultimately abated or corrected, shall constitute a separate
17 offense.

18 **Section 7.** If it is determined by the City Manager that a violation of this Ordinance exists,
19 the City Manager may issue and deliver an order to cease and desist from such violation to correct
20 the violation, to preclude occupancy of the affected building or area, or to vacate the premises. The

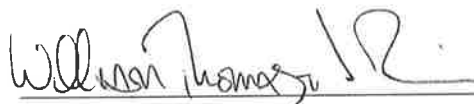
1 City Manager, through the City Attorney, may seek an injunction in a court of competent
2 jurisdiction and seek any other remedy available at law.

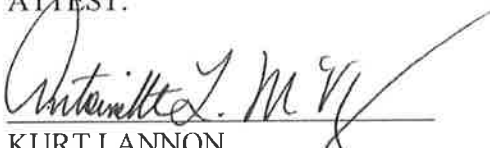
3 **Section 8.** If any word, phrase, clause, paragraph, section or provision of this ordinance
4 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
5 finding shall not affect the other provisions or applications of the ordinance which can be given
6 effect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

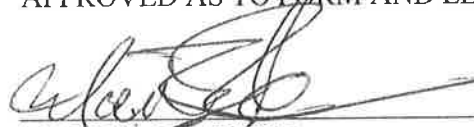
8 **Section 9.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
9 such conflict hereby repealed.

10 **Section 10.** This ordinance shall become effective immediately upon final adoption;
11 however, the rezoning shall not become effective until the amendment to the City of Gainesville
12 Comprehensive Plan adopted by Ordinance No. 100896 becomes effective as provided therein.

13 **PASSED AND ADOPTED** this 19th day of January, 2012.

14
15 
16 for CRAIG LOWE
17 MAYOR

18
19 ATTEST:
20 
21 KURT LANNON
22 CLERK OF THE COMMISSION

23 APPROVED AS TO FORM AND LEGALITY:
24 
25 MARION J. RADSON
26 CITY ATTORNEY

JAN 19 2012

27 This ordinance passed on first reading this 5th day of January, 2012.

28
29 This ordinance passed on second reading this 19th day of January, 2012.



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Delivered with Integrity*

LEGAL DESCRIPTION

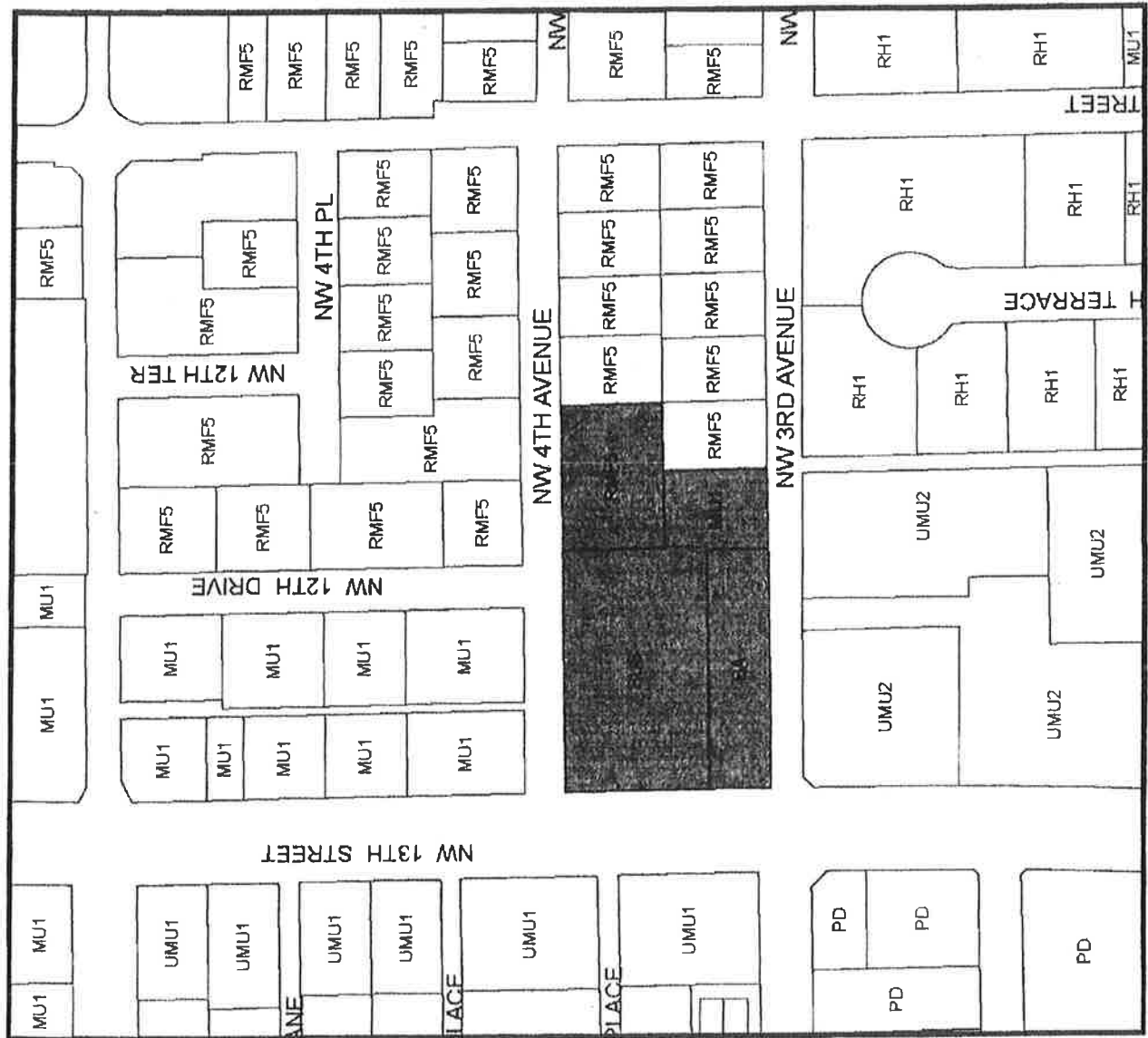
JUNE 24, 2011
GAINESVILLE MIXED USE – NW 13th St
JOB NO. 10-0151

LEGAL DESCRIPTION

A PARCEL OF LAND IN SECTION 5, TOWNSHIP 10 SOUTH, RANGE 20 EAST, GAINESVILLE, ALACHUA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF BEGINNING, COMMENCE AT THE NORTHWEST CORNER OF LOT 4, BLOCK 3, OF BELLAH'S SUBDIVISION, A SUBDIVISION AS PER PLAT THEREOF, RECORDED IN PLAT BOOK "C", PAGE 77 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA, SAID POINT ALSO BEING THE INTERSECTION OF THE EAST RIGHT OF WAY LINE OF NW 13TH STREET (80' RIGHT OF WAY) WITH THE SOUTH RIGHT OF WAY LINE OF NW 4TH AVENUE (40' RIGHT OF WAY); THENCE RUN NORTH 89°32'21" EAST ALONG THE SOUTH RIGHT OF WAY LINE OF SAID NW 4TH AVENUE, FOR 299.62 FEET TO THE NORTHEAST CORNER OF LOT 1 OF SAID BELLAH'S SUBDIVISION; THENCE RUN NORTH 89°11'10" EAST, CONTINUING ALONG SAID SOUTH RIGHT OF WAY LINE, FOR 70.85 FEET TO THE NORTHEAST CORNER OF LOT 5 OF SHELLIE COURT, A SUBDIVISION AS PER PLAT THEREOF, RECORDED IN PLAT BOOK "C", PAGE 61 OF SAID PUBLIC RECORDS; THENCE RUN SOUTH 01°10'41" EAST, ALONG THE EAST LINE OF SAID LOT 5 FOR 100.14 TO THE SOUTHEAST CORNER OF SAID LOT 5; THENCE RUN SOUTH 89°12'22" WEST, ALONG THE SOUTH LINE OF SAID LOT 5 AND AN EXTENTION THEREOF, 71.24 FEET TO THE NORTHEAST CORNER OF LOT 7 OF SAID BELLAH'S SUBDIVISION; THENCE RUN SOUTH 00°15'21" WEST, ALONG THE EAST LINE OF SAID LOT 7, FOR 99.62 FEET TO THE NORTH RIGHT OF WAY LINE OF NW 3RD AVENUE (30' RIGHT OF WAY); THENCE RUN SOUTH 89°26'23" WEST, ALONG SAID NORTH RIGHT OF WAY, FOR 73.04 FEET TO THE SOUTHWEST CORNER OF SAID LOT 7; THENCE RUN NORTH 00°33'42" EAST, ALONG THE WEST LINE OF SAID LOT 7, FOR 59.86 FEET; THENCE RUN SOUTH 89°32'21" WEST, FOR 7.30 FEET; THENCE RUN SOUTH 00°33'42" WEST, FOR 59.85 FEET TO THE AFORESAID NORTH RIGHT OF WAY LINE; THENCE RUN SOUTH 89°30'05" WEST, ALONG SAID NORTH RIGHT OF WAY LINE, FOR 205.00 FEET; THENCE RUN NORTH 64°22'42" WEST, FOR 11.22 FEET; THENCE RUN NORTH 00°28'51" EAST, FOR 5.06 FEET; THENCE RUN SOUTH 89°30'05" WEST, FOR 10.00 FEET TO THE AFOREMENTIONED EAST RIGHT OF WAY LINE OF NW 13TH STREET; THENCE RUN NORTH 00°26'47" WEST, FOR 190.00 FEET TO THE POINT OF BEGINNING.

Exhibit "A"
to Ordinance No. 100897



Area under petition consideration

Existing Zoning - BA, BUS, RMF5, MU1

Proposed Zoning - PD

Zoning Categories

- RMF5 - Residential Low Density (12 units per acre)
- RH1 - Residential High Density (8-43 units per acre)
- BA - Automotive Oriented Business
- BUS - General Business
- MU1 - Mixed Use Low Intensity (10-30 units per acre)
- UMU1 - Urban Mixed Use 1
- UMU2 - Urban Mixed Use 2
- PD - Planned Development

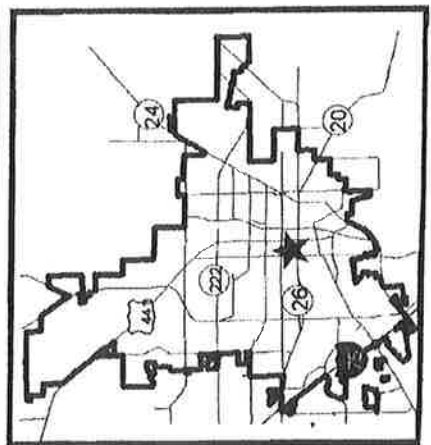


Exhibit "B" to Ordinance No. 100897