



MEMORANDUM

Office of the City Attorney

Box 46

Phone: 334-5011/Fax 334-2229

TO: Mayor and City Commission

DATE: June 27, 2005

FROM: City Attorney

CITY ATTORNEY
FIRST READING

SUBJECT: Ordinance No. 0-05-54, Petition 48LUC-05PB

An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Map; by changing the land use categories of certain properties annexed into the City from the Alachua County land use category of "LOW, Low Density Residential" to the City of Gainesville land use category of "Residential Low-Density (up to 12 units per acre)", as more specifically described in this Ordinance, generally located in the vicinity of the 7200 block of N.W. 52nd Terrace; providing a severability clause; providing a repealing clause; and providing an effective date.

Recommendation: The City Commission: 1) approve Petition No. 48LUC-05PB; and 2) adopt the proposed ordinance on first reading.

STAFF REPORT

The subject property is 18 acres in size, and is a portion of the Blues Creek development in northwest Gainesville (known in the Planned Unit Development as "Unit 1"). The property was annexed into the city in 2005, and is mostly found within the 100-year FEMA floodplain. A much larger portion of the Blues Creek development—256 acres—was annexed into the city in 2001 and 2002. This property must be brought into conformance with the City's Comprehensive Plan. This requires amending the City's Future Land Use Map to include this property. This petition would amend the City's Future Land Use Map.

Single-Family residential (SF) land use is north of the property, is also part of Blues Creek, and is undeveloped. County Low-Density Residential (1-4 du/ac) land use is adjacent and developed to the south, east and west.

The revised Master Plan for Blues Creek, dated November 1999, specifies that the 18 acres within Unit 1 shall contain 57 single-family attached homes. All units are to be 2- or 3-bedroom homes, with a maximum height of 35 feet. Each lot has a zero setback. Setbacks from the property perimeter or dedicated streets are 35 feet for front, 20 feet for rear and 10 feet from side.

The character of the nearby property is largely suburban residential. Because the character of nearby properties is compatible, these properties are most suitably given a Residential Low (RL) land use.

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

Public notice was published in the Gainesville Sun on April 5, 2000. Letters were mailed to surrounding property owners on April 6, 2005. The Plan Board held a public hearing April 21, 2005. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board recommended that the City Commission approve Petition 48LUC-05 PB. Plan Board vote 6-0.

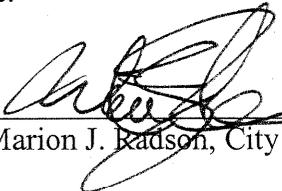
CITY ATTORNEY MEMORANDUM

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The first hearing is held at the transmittal stage and must be advertised seven days prior to the first public hearing. The second hearing will be held at the adoption stage of the ordinance and must be advertised five days before the adoption hearing.

If adopted on first reading, the proposed amendment to the Comprehensive Plan will be transmitted to the State Department of Community Affairs (DCA) for written comment. Any comments, recommendations or objections of the DCA will be considered by the Commission at the second public hearing.

Following second reading, the Plan amendment will not become effective until the DCA 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

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D R A F T

May 4, 2005

ORDINANCE NO. _____
0-05-54

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2
3
4 **An ordinance amending the City of Gainesville 2000-2010**
5 **Comprehensive Plan, Future Land Use Map; by changing the**
6 **land use categories of certain properties annexed into the City**
7 **from the Alachua County land use category of “LOW, Low**
8 **Density Residential” to the City of Gainesville land use category**
9 **of “Residential Low-Density (up to 12 units per acre)”, as more**
10 **specifically described in this Ordinance, generally located in the**
11 **vicinity of the 7200 block of N.W. 52nd Terrace; providing a**
12 **severability clause; providing a repealing clause; and providing**
13 **an effective date.**

14
15
16 **WHEREAS**, publication of notice of a public hearing was given that the Future Land Use
17 Map be amended by changing the land use categories of certain properties annexed into the City
18 from the Alachua County land use category of “LOW, Low Density Residential” to the City of
19 Gainesville land use category of “Residential Low-Density (up to 12 units per acre)”; and

20 **WHEREAS**, notice was given and publication made as required by law and a public
21 hearing was held by the City Plan Board on April 21, 2005; and

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

D R A F T

May 4, 2005

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

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

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

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

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

12 **Section 1.** The Future Land Use Map of the City of Gainesville 2000-2010 Comprehensive
13 Plan is amended by changing the land use category of the following described properties from the
14 Alachua County land use category of "LOW, Low Density Residential" to the City of Gainesville
15 land use category of "Residential Low-Density (up to 12 units per acre)":

16 See Exhibit "A" attached hereto and made a part hereof as if set forth
17 in full.

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

D R A F T

May 4, 2005

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

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

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

11 **PASSED AND ADOPTED** this ____ day of _____, 2005.

12

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16 ATTEST:

17

18

19 _____
20 KURT LANNON,
21 CLERK OF THE COMMISSION

PEGEEN HANRAHAN, MAYOR

APPROVED AS TO FORM AND LEGALITY:

MARION J. RADSON, CITY ATTORNEY

21

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

23

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

25

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Petition 48LUC-05 PB, Legislative Matter Number 041186
Petition 49ZON-05 PB, Legislative Matter Number 041187

LEGAL DESCRIPTION

PARCEL NO. 06007-011-013

Lot 13, Building "C", BLUES CREEK UNIT 1-A, a portion of a Planned Unit Development, as per plat thereof recorded in Plat Book "N", Page 20 of the Public Records of Alachua County, Florida.

PARCEL NO. 06007-123-002

Block "A", Lot Two (2), of Replat of Lots 23, 24, & 25, BLUES CREEK UNIT 1, a portion of a planned unit development situated in Section 10, Township 9 South, Range 19 East, as per plat thereof recorded in Plat Book "N", page 11 of the Public Records of Alachua County, Florida.

PARCEL NO. 06006-002-002

The South 300 Acres of the following described property:
The West three-fourths ($W \frac{3}{4}$) of Section Ten (10), Township Nine (9), South, Range Nineteen (19) East, less the Southwest Quarter of the Southeast Quarter ($SW \frac{1}{4}$ of the $SE \frac{1}{4}$). All lying and being in Alachua County, Florida.

PARCEL NO. 06007-124-000

All of Replat of Lots 23, 24, and 25, Blues Creek, Unit 1, as per Plat as recorded in Plat Book "N", page 11, of the Public Records of Alachua County, Florida. LESS AND EXCEPT Blocks A, B, C, D, E, and F of said Plat.

PARCEL NO. 06007-125-015

Lot 15, of a Replat of a portion of the replat of Lots 23, 24, and 25 of Blue's Creek, Unit 1, a Planned Unit Development as per plat thereof recorded in Plat Book "R", page 61 of the Public Records of Alachua County, Florida.

RE: PETITIONS TO ZONE-05PB - 041187
and 4920N-05PB - 041187

Dear Planning Board:

05-04-05A08:42 RCVD

April 26, 2004

My name is Marvin Davis. Our property which I own with my son, is 7012 NW 75th Lane, adjacent to the area under discussion, proposals numbers 13 and 14, on April, Friday the 21st.

Although it shall do little good to bring up the matter now, I am compelled to express my thoughts on your decision to approve the propositions.

I and the relevant neighbors feel as though "Godzilla" is marching out of the woods and has his outstretched claws and bared fangs ready to grasp us.

I am a quiet man, somewhat handicapped, and reluctant to speak in public. I could not bring myself to do so that evening and I regret it for I think that what I might have said would have influenced you to disapprove the measures.

I understand that you had no authority or purpose to consider the fact that the property in question is a wetland. Yet it has a very significant correlation that cannot be ignored.

The owner of the property is a wealthy, powerful, and influential man. I have no doubt that what he seeks to do, he will do. He has made his first step by having you re-zone the property. Next, he will get permission to build on the wetland. Then, permission to construct homes there. Then gain building permits. He will remove the trees (which absorb the water) and haul in sand to raise the property, build the homes, sell them, and the purchasers will find their fracturing walls and sodden cracking floor with its broken plumbing and be dismayed at the deterioration of their major investment. They will complain to the builder and he will ignore them. He has done so in nearby areas in the past. He has no regard for protecting the environment nor anything that will interfere with increasing his fortune.

The usually quiet Blues Creek stream turns into a raging torrent during heavy rains. The area turns into a lake. The water floods not only the backs of our properties, but has created ankle high water in front of many of the homes as well. If the property in question becomes higher, the water shall seek lower ground and can only threaten our possessions further.

You should have prevented Godzilla's **FIRST** step for, what now shall follow, will only become a major disaster for all of our properties. I thought you should know this.

Respectfully,



Water in front



Water in back

Dr. Marvin Davis
5106 NW 75th Lane
Gainesville, FL 32653

City of Gainesville

Inter-Office Communication

Planning Division
X5022, FAX x2282, Station 11

Item No. 13

TO: City Plan Board

DATE: April 21, 2005

FROM: Planning Division Staff

SUBJECT: Petition 48LUC-05 PB. City of Gainesville. Amend the City of Gainesville 2000-2010 Future Land Use Map from Alachua County Low Density Residential to RL (Residential Low Density, up to 12 units per acre) (Blues Creek). Located in the 7200 block of NW 52nd Terrace. Related to Petition 49ZON-05 PB.

Recommendation

Staff recommends approval of Petition 48LUC-05 PB.

Explanation

The subject property is 18 acres in size, and is a portion of the Blues Creek development in northwest Gainesville (known in the Planned Unit Development as "Unit 1"). The property was annexed into the city in 2005, and is mostly found within the 100-year FEMA floodplain. A much larger portion of the Blues Creek development—256 acres—was annexed into the city in 2001 and 2002. This property must be brought into conformance with the City's Comprehensive Plan. This requires amending the City's Future Land Use Map to include this property. This petition would amend the City's Future Land Use Map.

Single-Family residential (SF) land use is north of the property, is also part of Blues Creek, and is undeveloped. County Low-Density Residential (1-4 du/ac) land use is adjacent and developed to the south, east and west.

The revised Master Plan for Blues Creek, dated November 1999, specifies that the 18 acres within Unit 1 shall contain 57 single-family attached homes. All units are to be 2- or 3-bedroom homes, with a maximum height of 35 feet. Each lot has a zero setback. Setbacks from the property perimeter or dedicated streets are 35 feet for front, 20 feet for rear and 10 feet from side.

The character of the nearby property is largely suburban residential. Because the character of nearby properties is compatible, these properties are most suitably given a Residential Low (RL) land use.

Impact on Transportation Level-of-Service

This acreage is already fully developed with single-family attached units. No change in trip generation or transportation level of service is expected as a result of this land use action. This area is outside of the City's Transportation Concurrency Exception Area.

Compatibility of the proposal/surrounding land uses

Residential Low land use is suitable for the nearby low-density residential property designations.

Environmental impacts and constraints

Most of this property is within the 100-year floodplain. However, existing land development regulations would provide sufficient protection for any future redevelopment of this property with the RL land use designation.

Whether the change promotes urban infill

Subject property is within a developed suburban neighborhood.

Applicable Policies from the Gainesville Comprehensive Plan:

Future Land Use Element

Policy 4.1.1 Land Use Categories on the Future Land Use Map shall be defined as follows:

Residential Low-Density (up to 12 units per acre). This land use category shall allow dwellings at densities up to 12 units per acre. The Residential Low-Density land use classification identifies those areas within the City that, due to topography, soil conditions, surrounding land uses and development patterns, are appropriate for single-family development, particularly the conservation of existing traditional low-density neighborhoods, single-family attached and zero-lot line development, and small-scale multi-family development. Land development regulations shall determine gradations of density, specific uses and performance measures. Land development regulations shall specify criteria for the siting of low-intensity residential facilities to accommodate special need populations and appropriate community level institutional facilities such as places of religious assembly, public and private schools other than institutions of higher learning, and libraries. Land development regulations shall allow home occupations; accessory units in conjunction with single-family dwellings; and bed-and-breakfast establishments within certain limitations.

Objective 4.4

Newly annexed lands shall retain land uses as designated by Alachua County until the Future Land Use Element of this Plan is amended.

Policy 4.4.1 Land use amendments shall be prepared for all annexed properties within one year of annexation.

Policy 4.4.2 Alachua County LOS standards shall apply until newly annexed lands are given land use designations in this Plan.

Impact on Affordable Housing

This application will have no impact on affordable housing.

Applicant Information

City of Gainesville

Request

Amend the land use of the property from Alachua County Low-Density Residential to RL (Residential Low).

Existing Land Use Plan Classification

Alachua County Low-Density Residential.

Existing Zoning

Alachua County Planned Development.

Purpose of Request

Properties were recently annexed by the City and must be given City land use designation in order to apply the goals, objectives and policies of the Gainesville Comprehensive Plan.

Location

7200-block of NW 52nd Terrace.

Size

18 acres.

Existing Use

Attached residential

Surrounding Land Uses

North

Undeveloped

South

Residential

East

Residential

West

Residential

Surrounding Controls

	Existing Zoning	Existing Land Use
East	PD (Planned Development) (county)	Low-Density Residential (county)
South	PD (Planned Development) (county)	Low-Density Residential (county)
West	PD (Planned Development) (county)	Low-Density Residential (county)
North	PD (Planned Development)	SF (Single-Family Residential)

Summary

The proposed land use change is consistent with the 2000-2010 Gainesville Comprehensive Plan, and is recommended for approval.

Respectfully submitted,



Ralph Hilliard
Planning Manager

DM:DN

Attachment

Land Use Designations

- SF
- RL
- RM
- RH
- MUR
- MUL
- MUM
- MUH
- O
- C
- IND
- E
- REC
- CON
- AGR
- PF
- PUD

- Single Family (up to 8 units per acre)
- Residential Low Density (up to 12 units per acre)
- Residential Medium Density (8-30 units per acre)
- Residential High Density (8-100 units per acre)
- Mixed Use Residential (up to 75 units per acre)
- Mixed Use Low Intensity (10-30 units per acre)
- Mixed Use Medium Intensity (14-30 units per acre)
- Mixed Use High Intensity (up to 150 units per acre)
- Office
- Commercial
- Industrial
- Education
- Recreation
- Conservation
- Agriculture
- Public Facilities
- Planned Use District

Division line between two land use districts
 City Limits

Area under petition consideration



EXISTING LAND USE

Name	Petition Request	Map(s)	Petition Number
City of Gainesville	From Low Density Residential to RL	3042	48LUC-05PB



No Scale

Land Use Designations

- SF
- RL
- RM
- RH
- MUR
- MUL
- MUM
- MUH
- O
- C
- IND
- E
- REC
- CON
- AGR
- PF
- PUD

- Single Family (up to 8 units per acre)
- Residential Low Density (up to 12 units per acre)
- Residential Medium Density (8-30 units per acre)
- Residential High Density (8-100 units per acre)
- Mixed Use Residential (up to 75 units per acre)
- Mixed Use Low Intensity (10-30 units per acre)
- Mixed Use Medium Intensity (14-30 units per acre)
- Mixed Use High Intensity (up to 150 units per acre)
- Office
- Commercial
- Industrial
- Education
- Recreation
- Conservation
- Agriculture
- Public Facilities
- Planned Use District

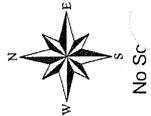
--- Division line between two land use districts
 — City Limits

Area under petition consideration



PROPOSED LAND USE

Name	Petition Request	Map(s)	Petition Number
City of Gainesville	From Low Density Residential to RL	3042	48LUC-05PB



No. Sc

13. **Petition 48LUC-05 PB** City of Gainesville. Amend the City of Gainesville 2000-2010 Future Land Use Map from Alachua County Low Density Residential to RL (Residential Low Density, up to 12 units per acre) (Blues Creek). Located in the 7200 block of NW 52nd Terrace. Related to Petition 49ZON-05 PB.

Mr. Dom Nozzi was recognized. Mr. Nozzi indicated that he would be discussing Petitions 48LUC-05 PB and 49ZON-05 PB simultaneously. He stated that there had been a lot of confusion and he wanted to make it clear that the petitions before the board did not involve any proposed development on the properties in question. He explained that the properties were annexed into the City from Alachua County early in 2005 and the petitions involved replacing County land use and zoning designations with City land use and zoning designations. He noted that the properties were mostly in the flood plain. He presented a map of the properties. Mr. Nozzi explained that there would be essentially no changes in the previously adopted County Development (PD) zoning designation and the City PD zoning designation. Regarding the land use designation, he indicated that land use designation would be changed to the City's Residential Low Density (RL). He presented slides of the properties and offered to answer any questions from the board.

Mr. Reiskind noted the proposal was to assign a City zoning designation that would fit as close as possible to the County zoning designation. He asked if any changes or new development under either the new or old zoning would have to be approved by the board.

Mr. Nozzi indicated that any changes to the PD zoning would have to go through the public hearing process to amend the regulations.

Chair Cole opened the floor to public comment.

Mr. Mark Miesel, 6915 NW 52nd Drive, was recognized. Mr. Miesel pointed out his property on the map and the location of Blues Creek. He stated that the comments regarding the zoning status did not allay the concern about development along the Blues Creek area. He discussed the history of development in the area where wetlands were filled in.

Mr. Gary Cooper, 7005 NW 52nd Drive, was recognized. Mr. Cooper presented a petition protesting any future development of the area of Blues Creek. He indicated cited concerns for the neighborhood and natural habitat in any type of rezoning. He noted that the proposed land use had gone from 8 units per acre in the County to 12 units per acre in the City, which was a higher density.

Mr. Nozzi explained that the existing County land use designation on the property, Low Density Residential, allowed 1 to 4 dwelling units per acre, and the proposed City land use designation would allow up to 12 dwelling units per acre. He noted, however, that the property was already developed with attached residential units, which were not permitted under the City's single-family land use designations. He indicated that the proposed land use was the lowest density designation in the City that allowed attached units. He pointed out that it was the Planned Development zoning ordinance that controlled the density and actual number of units allowed on the property.

Mr. Cooper pointed out that Petition 49ZON-05 PB was a rezoning petition. He suggested that would allow it to go from a lower to higher density.

Mr. Mimms stated that there was absolutely no change in the zoning. He explained that the regulations of the PD zoning approved by Alachua County would remain in place under the City's PD zoning. He noted that there had been some confusion because neighborhood workshop notices had been posted for another portion of Blues Creek that was unrelated to the petitions under consideration by the board.

Mr. Cooper suggested that the area between the single-family and attached homes should be conservation.

Chair Cole pointed out that the City's creek and wetland regulations limited the amount of development that could take place in that area regardless of the zoning.

Mr. Gold pointed out that the creek was a regulated creek and there were set back requirements for it and any wetlands in the area.

Mr. Terry Klenk, 7014 NW 52nd Terrace, was recognized. Mr. Klenk indicated that he was president of the Blues Creek Community Association. He discussed maps showing the area and noted that, while the existing attached housing was indicated, the single-family houses were not. He cited concerns about the wetlands areas and the amount of information available about the situation.

Mr. Mimms explained that the information presented was obtained from the County but it appeared that the labeling was confusing.

Ms. Kim Cooper was recognized. Ms. Cooper asked if there would be future development on the property with the land use that allowed more units per acre.

Chair Cole explained that petitions before the board involved designation changes so the annexed area could become officially part of the City. He reiterated that there were regulations that would prohibit development very close to a creek.

Mr. Mimms explained that staff did not have detailed information on the stipulations for density in Planned Development ordinance as approved by the County. He noted, however, should a developer propose construction that deviated from the approved Planned Development ordinance, a petition would go to the Plan Board and City Commission.

Ms. Madeline Davis, 7012 NW 52nd Terrace, was recognized. Ms. Davis noted that the developer of Blues Creek had already developed over a wetland in the past, and residents were concerned about problems of that nature.

Ms. Jessica Whitmore, 7025 NW 52nd Drive, was recognized. Ms. Whitmore asked if the property could remain zoned as it is under the County.

Chair Cole explained that the property would be essentially zoned the same as it was under the County.

Mr. Gold indicated that anyone who was interested could go to the County records and learn the details of what the Planned Development ordinance would allow to be constructed.

Chair Cole closed the floor to public comment.

<u>Motion By:</u> Mr. Gold	<u>Seconded By:</u> Mr. Reiskind
<u>Moved to:</u> Approve Petition 48LUC-05 PB.	<u>Upon Vote:</u> Motion Carried 6 - 0 Ayes: Gold, Rwebyogo, Reiskind, Cohen, Tecler, Cole

