

ORDINANCE NO. 050253
0-06-22

An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Map; by overlaying the “Planned Use District” category over certain property, as more specifically described in this ordinance, with the underlying Alachua County land use category of “COMM, Commercial”; located in the vicinity of 4405 N.W. 39th Avenue; providing a severability clause; providing a repealing clause; and providing an effective date.

WHEREAS, by initiation of a petition by the property owner, publication of notice of a public hearing was given that the Future Land Use Map be amended by overlaying the land use category of “Planned Use District” over certain recently annexed properties with the underlying Alachua County land use category of “COMM, Commercial”; and

WHEREAS, notice was given and publication made as required by law and a public hearing was held by the City Plan Board on November 17, 2005; and

WHEREAS, notice was given and publication made as required by law and a public hearing was held by the City Commission on December 12, 2005; and

WHEREAS, the amendment to the land use category of the City of Gainesville 2000-2010 Comprehensive Plan proposed herein directly relates to a small scale development activity as provided in Chapter 163, Florida Statutes; the City of Gainesville will transmit copies of the public notice and this proposed change to the State Land Planning Agency, the regional planning council, and any other person or entity who has requested a copy for their comments subsequent to the passage of this ordinance; and

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

5 **WHEREAS**, pursuant to law, notice has also been given by mail to the property owners
6 whose land will be regulated by the adoption of this Ordinance and interested parties, at least ten
7 days prior to the date set for a public hearing on this ordinance; and

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

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

13 **Section 1.** The Future Land Use Map of the City of Gainesville 2000-2010 Comprehensive
14 Plan is amended by overlaying the “Planned Use District” future land use category on the following
15 described property with the underlying Alachua County Land Use Category of “COMM,
16 Commercial”:

17 See legal description attached hereto as Exhibit "A", and made a part
18 hereof as if set forth in full.
19

20 **Section 2.** A planned development zoning ordinance is required to implement the overlay
21 Planned Use District Category, and must be adopted by the City Commission within five years of
22 the effective date of the land use designation as provided in Section 8 of this Ordinance.

1 **Section 3.** The planned use district category of the property described in Section 1 of this
2 ordinance is subject to the following terms, conditions and restrictions:

- 3 1. The overall intensity of development on the site is limited to a maximum of 10,000 gross
4 square feet of floor area and maximum lot coverage of 60%.
- 5 2. The permitted uses is limited to those uses allowed by the Commercial and Office land use
6 categories of the City of Gainesville, Comprehensive Plan as further limited by the Planned
7 Development zoning ordinance used to implement this Planned Use District.
- 8 3. Drive-through facilities shall only be allowed in accordance with policies 1.4.4, 1.4.5, 1.4.6,
9 and 1.4.7 of the City of Gainesville 2000-2010 Concurrency Management Element, as
10 applicable.
- 11 4. The development shall utilize the existing Northwest 39th Avenue driveway access to the
12 west of the proposed development site and no additional access shall be allowed onto
13 Northwest 39th Avenue. Shared vehicular access to Northwest 43rd Street may be permitted
14 by the City with the property located immediately to the east.
- 15 5. The Planned Development shall provide sidewalk and bicycle access to Northwest 39th
16 Avenue.
- 17 6. This ordinance does not vest the property for Transportation Concurrency as required by the
18 City of Gainesville 2000-2010 Comprehensive Plan.
- 19 7. During development plan review, the property owner shall demonstrate full compliance
20 with the environmental regulations, Section 30-275 - 305, (as applicable) of the Land
21 Development Code. Special emphasis shall be placed on subsurface environmental

1 concerns and evidence shall be provided to establish to the satisfaction of the City that no
2 subsurface environmental problems exist.

3 8. Other than the proposed access way to the existing driveway, no outdoor uses or drive-
4 through facilities shall be allowed on the west side of the building proposed for the
5 development.

6 **Section 4.** The underlying Alachua County Future Land Use category of “COMM,
7 Commercial” on the property described in Section 1 of this ordinance is neither abandoned nor
8 repealed; such category is inapplicable as long as the property is developed and use in accordance
9 with the development plan approved in the ordinance rezoning this property to Planned
10 Development “PD”. In the event, however, the property described in Section 1 of this Ordinance is
11 not rezoned by ordinance to Planned Development “PD” within five years of this amendment
12 becoming effective as provided in Section 8 of this Ordinance, then the Planned Use District
13 Category imposed by this Ordinance shall be deemed null and void and of no further force and
14 effect, and the Future Land Use Map shall be amended accordingly upon proper notice and action
15 in accordance with the Future Land Use Element of the Comprehensive Plan.

16 **Section 5.** 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 6.** 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.

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

Section 8. This ordinance shall become effective immediately upon passage; however, the amendment to the City of Gainesville 2000-2010 Comprehensive Plan shall become effective thirty (30) days after passage and adoption of this Ordinance unless a petition is filed with the Department of Administrative Hearings pursuant to § 163.3187(3), F.S. In this event this Ordinance shall not become effective until the state land planning agency issues a final order determining the amendment to be in compliance in accordance with § 163.3187, or until the Administration Commission issues a final order determining the adopted amendment to be in compliance in accordance with § 163.3187, F.S.

PASSED AND ADOPTED this 10th day of July, 2006.

Pegeen Hanrahan
PEGEEN HANRAHAN, MAYOR

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

KURT LANNON,
CLERK OF THE COMMISSION

MARION J. RADSON, CITY ATTORNEY

JUL 11 2006

This ordinance passed this 10th day of July, 2006.

EXHIBIT "A"

LEGAL DESCRIPTION (per OR Book 1747 Page 1637)

A parcel of land located in the Northeast one-quarter of Section 27, Township 9 South, Range 19 East, Alachua County, Florida, being more particularly described as follows:

Commence at a found case-hardened nail marking the intersection of the centerline of County Road No. 232 with the centerline of State Road No. 222 as per Florida Department of Transportation right of way map for State Road No. 222, Section 26005-2519, thence South 89 deg. 04 min 10 sec. West along the centerline of State Road No. 222 (N.W. 39th Avenue) a distance of 219.47 feet; thence South 00 deg. 58 min. 15 sec. East a distance of 62.00 feet to a set iron pin (#3524), marking the intersection with the South right of way line of State Road No. 222 and the Point of Beginning; thence continue South 00 deg. 58 min. 15 sec. East a distance of 209.78 feet to a set iron pin (#3524), thence South 89 deg. 04 min. 10 sec. West a distance of 262.01 feet to a set iron pin (#3524), marking the intersection with the East line of Chula Vista Park as recorded in Plat Book "G", page 67, of the Public Records of Alachua County, Florida, thence North 00 deg. 49 min. 08 sec. West along said East line a distance of 213.37 feet to a set iron pin (#3524), marking the intersection with the South right of way line of State Road No. 222; thence South 87 deg. 02 min. 50 sec. East along said line a distance of 53.02 feet to a set iron pin (#3524); thence North 89 deg. 04 min. 10 sec. East along said line a distance of 208.54 feet to the Point of Beginning, containing 1.26 acres, more or less.