



# MEMORANDUM

Office of the City Attorney

LEGISTAR NO. 060736

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

TO: Mayor and City Commission

DATE: October 22, 2007

FROM: City Attorney

CITY ATTORNEY  
SECOND READING

SUBJECT: Ordinance No. 0-07-26, Petition 179LUC-06PB  
An Ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan; by changing the land use category of certain property, as more specifically described in this ordinance, annexed into the City from the Alachua County land use category of "Medium Density Residential" to the City of Gainesville land use category of "Mixed-Use Medium-Intensity (12-30 units per acre)" consisting of approximately 40.5 acres, located in the vicinity of 4400 S.W. 20<sup>th</sup> Avenue; making findings; providing a severability clause; providing a repealing clause; and providing an effective date.

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**Recommendation:** The City Commission: 1) receive the report of the Department of Community Affairs; and 2) adopt the proposed ordinance.

## STAFF REPORT

This petition is related to zoning petition 180ZON-06 PB. The purpose of this petition is to apply a City of Gainesville land use category to land that was annexed into the City in 2006. Land use districts are recommended that either approximate those of the existing Alachua County districts or that are felt to be the most appropriate for the property based upon location, surrounding development and other factors. The County land use designation remains in effect until the proposed amendment has been adopted.

The annexed area includes two parcels that total approximately 40.5 acres. The Alamar Gardens Mobile Home Park currently occupies the site with 224 mobile home lots. The property is on the north side of Southwest 20<sup>th</sup> Avenue, north and west of Southwest 43<sup>rd</sup> Street. The Alachua County land use designation for the property is Residential Medium Density (greater than 4 to less than or equal to 8 dwelling units per acre) with a County zoning designation of RM (Manufactured/mobile home park). The requested large-scale land use amendment is from Residential Medium Density to the City of Gainesville land use designation of MU-M (Mixed-Use Medium-Intensity, 12-30 units per acre).

The State of Florida Department of Community Affairs (DCA) issued a letter dated August 2, 2007, stating that this amendment (DCA Reference No. 07-1, which includes two unrelated comprehensive plan amendments) should be formally reviewed for consistency with Chapter 163,

F.S., and Rule 9J-5, F.A.C. As a result of its formal review, DCA raised no objections to the proposed amendment, but did comment as follows on Petition 179LUC-06 PB:

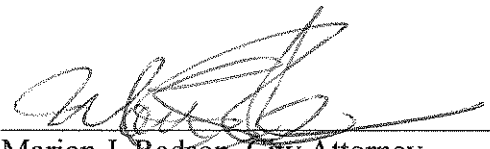
“With regards to the Future Land Use Map amendment, the City should develop long term solutions to address the transportation level of service deficiencies. These solutions should be consistent with the City’s vision of ...the area as a dense, walkable area that will support pedestrians, cyclists, and transit-oriented development.” The DCA comment is advisory only and does not call for a change in the proposed land use amendment.

A copy of DCA’s letter, which serves as the Department’s Objections, Recommendations and Comments Report, is attached to this memorandum. The City may now proceed with the final adoption of this ordinance.

#### CITY ATTORNEY MEMORANDUM

After final reading of the ordinance on June 11, 2007, the ordinance was transmitted to the DCA for review and comment. After 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

Attachment

Passed on first reading by a vote of 7-0 on June 11, 2007.



08-06-2007 P03:31

STATE OF FLORIDA

# DEPARTMENT OF COMMUNITY AFFAIRS

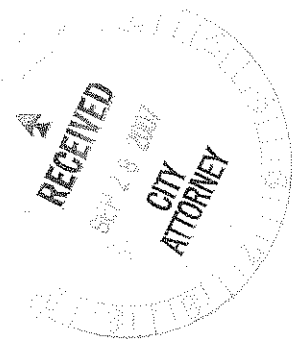
*"Dedicated to making Florida a better place to call home"*

CHARLIE CRIST  
Governor

THOMAS G. PELHAM  
Secretary

August 2, 2007

The Honorable Pegeen Hanrahan  
Mayor, City of Gainesville  
P.O. Box 490, Station 19  
Gainesville, FL 32601-0490



Dear Mayor Hanrahan:

The Department conducted a preliminary review of the City of Gainesville proposed comprehensive plan amendment received on June 28, 2007, DCA Reference No. 07-1, and determined that the proposed plan amendment should be formally reviewed for consistency with the minimum criteria contained in Chapter 163, Florida Statutes, and Rule 9J-5, Florida Administrative Code.

As a result of our formal review of the proposed amendment for consistency with Rule 9J-5, Florida Administrative Code, Chapter 163, Part II, Florida Statutes, and the adopted City of Gainesville Comprehensive Plan, the Department raises no objections to the proposed amendment. This letter serves as the Department's Objections, Recommendations and Comments Report. Copies of the proposed amendment have been distributed to appropriate state, regional and local agencies for their review and their comments are enclosed.

While the Department raises no objections to the proposed amendment the Department does have comments. Regarding the Urban Mixed Use 1 and Urban Mixed Use 2 future land use categories, the Department comments these categories lack the required distribution of the mix of land uses for mixed use categories. Additionally, the City may wish to change the language for the increase in building height for projects to reference the more rigorous planned development process rather than the special use permit. With regards to the Future Land Use Map amendment, the City should develop long term solutions to address the transportation level of service deficiencies. These solutions should be consistent with the City's vision of area of the area as a dense, walkable area that will support pedestrians, cyclists, and transit-oriented development.

2555 SHUMARD OAK BOULEVARD ■ TALLAHASSEE, FLORIDA 32399-2100  
Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781  
Internet address: <http://www.dca.state.fl.us>

COMMUNITY PLANNING  
Phone: 850-488-2356/SUNCOM 278-2356  
Fax: 850-488-3309/SUNCOM 278-3309

AREAS OF CRITICAL STATE CONCERN FIELD OFFICE  
Phone: 305-289-2402  
Fax: 305-289-2442

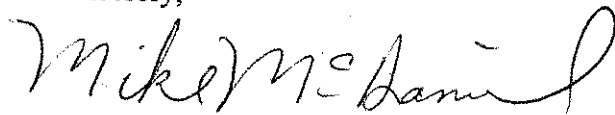
HOUSING AND COMMUNITY DEVELOPMENT  
Phone: 850-488-7956/SUNCOM 278-7956  
Fax: 850-922-5623/SUNCOM 292-5623

The Honorable Pegeen Hanrahan  
August 2, 2007  
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In order to expedite the regional planning council's review of the amendment, and pursuant to Rule 9J-11.011(5), Florida Administrative Code, please provide a copy of the adopted amendment directly to the Executive Director of the North Central Florida Regional Planning Council.

If you have any questions, please contact Ana Richmond, Planner, at (850) 922-1794.

Sincerely,

A handwritten signature in black ink that reads "Mike McDaniel". The signature is fluid and cursive, with the first name "Mike" and last name "McDaniel" clearly distinguishable.

Mike McDaniel  
Chief, Office of Community Planning

MM/ar

Enclosures: Review Agency Comments

cc: Mr. Dean Mimms, AICP, Chief of Comprehensive Planning, City of Gainesville  
Mr. Scott R. Koons, AICP, Executive Director, North Central Florida Regional Planning Council

# DRAFT

5/1/2007

ORDINANCE NO. \_\_\_\_\_  
0-07-26

An Ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan; by changing the land use category of certain property, as more specifically described in this ordinance, annexed into the City from the Alachua County land use category of "Medium Density Residential" to the City of Gainesville land use category of "Mixed-Use Medium-Intensity (12-30 units per acre)" consisting of approximately 40.5 acres, located in the vicinity of 4400 S.W. 20<sup>th</sup> Avenue; making findings; providing a severability clause; providing a repealing clause; and providing an effective date.

**WHEREAS**, publication of notice of a public hearing that the Future Land Use Map be amended by changing the land use categories of certain lands annexed within the City from the Alachua County land use category of "Medium Density Residential" to the City of Gainesville land use category of "Mixed-Use Medium-Intensity (12-30 units per acre)"; and

**WHEREAS**, notice by the Plan Board was given and publication made as required by law and a public hearing was held by the City Plan Board on January 18, 2007; and

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

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

**WHEREAS**, a second advertisement no less than two columns wide by 10 inches long was

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placed in the aforesaid newspaper notifying the public of the second Public Hearing to be held at the adoption stage at least five (5) days after the day the second advertisement was published; and

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

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

**WHEREAS**, at the public hearing held on April 19, 2007, the City Commission found that adequate mobile home parks or other suitable facilities exist for the relocation of the mobile home owners that may be removed or relocated on the properties that are the subject of this ordinance.

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

**Section 1.** The City Commission reaffirms its finding that adequate mobile home parks or other suitable facilities exist for the relocation of the mobile home owners.

**Section 2.** The Future Land Use Map of the City of Gainesville 2000-2010 Comprehensive Plan is amended by changing the land use categories of the following described properties from the Alachua County land use category "Medium Density Residential" to the City of Gainesville land use category of "Mixed-Use Medium-Intensity (12-30 units per acre)";

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

**Section 3.** The City Manager is authorized and directed to make the necessary changes in

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maps and other data in the City of Gainesville 2000-2010 Comprehensive Plan, or element, or portion thereof in order to comply with this ordinance.

**Section 4.** If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

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

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

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2007

\_\_\_\_\_  
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 \_\_\_\_\_, 2007.

This ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2007.

## SOHO LEGAL DESCRIPTION

**TAX PARCEL #6680-1 (OFFICIAL RECORDS BOOK 591 PAGE 261)**

A TRACT OF LAND SITUATED IN THE EAST HALF (E1/2) OF SECTION 10, TOWNSHIP 10 SOUTH, RANGE 19 EAST, ALACHUA COUNTY, FLORIDA, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 10, TOWNSHIP 10 SOUTH, RANGE 19 EAST, AND RUN NORTH 00°06'12" WEST, ALONG THE EAST LINE OF SAID SECTION 10 2170.49 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF COUNTY ROAD SW-30 AND THE POINT OF BEGINNING; THENCE RUN NORTH 54°23'42" WEST, ALONG THE NORTHERLY RIGHT OF WAY LINE OF SAID COUNTY ROAD SW-30, 1227.38 FEET TO THE CENTER LINE OF HOGTOWN CREEK; THENCE RUN ALONG THE CENTER LINE OF SAID HOGTOWN CREEK WITH THE FOLLOWING COURSES AND DISTANCES: NORTH 52°39'12" WEST, 58.18 FEET; NORTH 25°24'04" EAST, 46.94 FEET; NORTH 38°01'04" WEST, 36.93 FEET; NORTH 03°21'12" WEST, 48.56 FEET; NORTH 62°14'20" WEST, 35.41 FEET; NORTH 01°24'28" WEST, 88.42 FEET; NORTH 70°23'24" EAST, 70.19 FEET; NORTH 07°44'36" EAST, 122.40 FEET; NORTH 09°24'28" EAST, 145.48 FEET; NORTH 31°41'30" EAST, 99.00 FEET; NORTH 75°38'42" EAST, 85.10 FEET; NORTH 43°49'34" EAST, 108.80 FEET; NORTH 61°22'26" EAST, 110.45 FEET; NORTH 08°46'18" EAST, 47.43 FEET; NORTH 72°52'50" EAST, 46.61 FEET; NORTH 71°47'22" EAST, 78.25 FEET; SOUTH 86°03'05" EAST, 26.90 FEET; NORTH 63°31'46" EAST, 100.63 FEET; THENCE NORTH 44°59'38" EAST, 78.52 FEET; NORTH 25°13'30" EAST, 92.00 FEET; NORTH 66°27'02" EAST, 65.90 FEET; NORTH 75°36'34" EAST, 86.05 FEET; SOUTH 85°28'04" EAST, 52.77 FEET TO THE EAST LINE OF SAID SECTION 10; THENCE LEAVE THE CENTERLINE OF SAID HOGTOWN CREEK AND RUN SOUTH 00°06'12" EAST, ALONG THE EAST LINE OF SECTION 10, 1764.37 FEET TO THE POINT OF BEGINNING.

**TOGETHER WITH  
TAX PARCEL #6745-2**

A TRACT OF LAND SITUATED IN LOT 8, SECTION 11, TOWNSHIP 10 SOUTH, RANGE 19 EAST, ALACHUA COUNTY, FLORIDA, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 11, TOWNSHIP 10 SOUTH, RANGE 19 EAST, AND RUN NORTH 00°06'12" WEST, ALONG THE WEST LINE OF SAID SECTION 11 2170.49 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF COUNTY ROAD SW-30 AND THE POINT OF BEGINNING; THENCE CONTINUE NORTH 00°06'12" WEST ALONG THE WEST LINE OF SAID SECTION 11, 1232.34 FEET TO THE NORTHERLY LINE OF A POWER LINE EASEMENT; THENCE RUN SOUTH 89°24'22" EAST, ALONG THE NORTHERLY LINE OF SAID POWER LINE EASEMENT, 662.00 FEET TO THE EAST LINE OF SAID LOT 8, THENCE RUN SOUTH 00°05'48" EAST, ALONG THE EAST LINE OF SAID LOT 8, 1636.41 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID COUNTY ROAD, THENCE RUN NORTHWESTERLY ALONG THE NORTHERLY RIGHT OF WAY LINE OF SAID COUNTY ROAD WITH A CURVE HAVING A CENTRAL ANGLE OF 09°29'22", A RADIUS OF 3637.72 FEET, A LENGTH OF 624.35 FEET AND A CHORD OF NORTH 59°08'23" WEST, 623.64 FEET; THENCE RUN NORTH 54°23'42" WEST, ALONG THE NORTHERLY RIGHT OF WAY LINE OF



SAID COUNTY ROAD, 156.52 FEET TO THE POINT OF BEGINNING. LESS A ROAD RIGHT OF WAY LYING WITHIN EIGHTY FEET OF AND WEST OF THE EAST SURVEY LINE.

THE UNDERLINED PORTION OF THIS DESCRIPTION APPEARS TO BE IN ERROR AND SHOULD READ 3769.72'.

**LESS AND EXCEPT THE FIVE FOLLOWING PARCELS:**

**TAX PARCEL #6745-2-1 (OFFICIAL RECORDS BOOK 720 PAGE 167)**

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 11, TOWNSHIP 10 SOUTH, RANGE 19 EAST AND RUN NORTH 0°06'12" WEST ALONG THE WEST LINE OF SAID SECTION 2170.49' TO THE NORTHERLY RIGHT OF WAY LINE OF COUNTY ROAD NO. SW-30, THENCE RUN SOUTH 54°23'42" EAST ALONG SAID RIGHT OF WAY LINE 156.82' TO THE P.C. OF A CURVE HAVING A RADIUS OF 3769.72' THENCE RUN SOUTHEASTERLY ALONG SAID RIGHT OF WAY CURVE ARC DISTANCE 316.59' TO THE POINT OF BEGINNING, THENCE CONTINUE SOUTHEASTERLY ALONG SAID RIGHT OF WAY CURVE ARC DISTANCE OF 81.04' THENCE RUN NORTH 0°05'58" WEST 129.95', THENCE RUN NORTH 89°24'22" WEST 70', THENCE RUN SOUTH 0°05'58" EAST 90' TO THE POINT OF BEGINNING.

**TAX PARCEL #6745-2-2 (OFFICIAL RECORDS BOOK 1235 PAGE 951)**

THAT PART OF LOT 8 OF SECTION 11, TOWNSHIP 10 SOUTH, RANGE 19 EAST, ALACHUA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 11, FOR A POINT OF REFERENCE; PROCEED FROM SAID REFERENCE NORTH 00°06'12" WEST, ALONG THE WEST LINE OF SAID SECTION 11, A DISTANCE OF 2170.49 FEET TO THE INTERSECTION WITH THE NORTHERLY RIGHT OF WAY LINE OF COUNTY ROAD SW-30; THENCE SOUTH 54°23'42" EAST, ALONG THE SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 156.52 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, AND HAVING A RADIUS OF 3769.72 FEET; THENCE SOUTHEASTERLY, ALONG ARC OF SAID CURVE, AN ARC DISTANCE OF 74.54 FEET, AND THROUGH AN ARC ANGLE OF 01°07'59", TO A POINT OF BEGINNING; THENCE CONTINUE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, AN ARC DISTANCE OF 201.44 FEET, AND THROUGH AN ARC ANGLE OF 03°03'42"; THENCE NORTH 00°05'58" WEST, A DISTANCE OF 183.22 FEET; THENCE NORTH 56°05'06" WEST, A DISTANCE OF 98.89 FEET; THENCE SOUTH 33°54'54" WEST, A DISTANCE OF 155.29 FEET TO AN INTERSECTION WITH THE SAID CURVE, AND THE SAID POINT OF BEGINNING.

**TAX PARCEL #6745-2-4 (OFFICIAL RECORDS BOOK 1588 PAGE 528)**

A PARCEL OF LAND LYING IN SECTION 10 AND 11, TOWNSHIP 10 SOUTH, RANGE 19 EAST, ALACHUA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE, COMMENCE AT THE SOUTHWEST CORNER OF SECTION 11, THENCE NORTH 00°06'12" WEST, ALONG THE WEST LINE OF SAID SECTION, A DISTANCE OF 2170.49 FEET TO THE INTERSECTION WITH THE NORTHERLY RIGHT OF WAY LINE OF COUNTY ROAD SW-30 AND THE POINT OF BEGINNING; THENCE NORTH 54°23'42" WEST, ALONG THE SAID RIGHT OF WAY LINE, A DISTANCE OF 104.43 FEET TO A PLACED 5/8" INCH RE-BAR WITH A PLASTIC CAP STAMPED P.L.S. 2115; THENCE NORTH 35°55'54" EAST, A DISTANCE OF 146.16 FEET TO A PLACED 5/8" INCH RE-BAR WITH A PLASTIC CAP STAMPED P.L.S. 2115; THENCE SOUTH 56°05'06" EAST, A DISTANCE OF 128.59 FEET TO AN

EXISTING RE-BAR WITH A PLASTIC CAP STAMPED P.L.S. 2115; THENCE SOUTH  $35^{\circ}33'44''$  WEST, A DISTANCE OF 149.95 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT OF WAY LINE OF COUNTY ROAD S.W.-30 AND AN EXISTING 5/8" RE-BAR WITH A PLASTIC CAP STAMPED P.L.S. 2115; THENCE NORTH  $54^{\circ}23'42''$  WEST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 25.05 FEET TO THE SAID POINT OF BEGINNING.

**TAX PARCEL #6745-2-3 (OFFICIAL RECORDS BOOK 1588 PAGE 545)**

THAT PART OF LOT 8 OF SECTION 11, TOWNSHIP 10 SOUTH, RANGE 19 EAST, ALACHUA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 11, FOR A POINT OF REFERENCE; PROCEED FROM SAID POINT OF REFERENCE NORTH  $00^{\circ}06'12''$  WEST, ALONG THE WEST LINE OF SAID SECTION 11, A DISTANCE OF 2170.49 FEET TO THE INTERSECTION WITH THE NORTHERLY RIGHT OF WAY LINE OF COUNTY ROAD SW-30; THENCE SOUTH  $54^{\circ}23'42''$  EAST, ALONG THE SAID NORTHERLY RIGHT OF WAY LINE, A DISTANCE OF 25.05 FEET TO A PLACED 5/8" REBAR WITH PLASTIC CAP STAMPED PLS 2115 FOR THE POINT OF BEGINNING; FROM SAID POINT OF BEGINNING CONTINUE SOUTH  $54^{\circ}23'42''$  EAST ALONG THE SAID NORTHERLY RIGHT OF WAY LINE, 131.47 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY, AND HAVING A RADIUS OF 3769.72 FEET; THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, AN ARC DISTANCE OF 74.54 FEET, AND THROUGH AN ARC ANGLE OF  $01^{\circ}07'59''$ ; THENCE NORTH  $33^{\circ}54'54''$  EAST, A DISTANCE OF 155.29 FEET; THENCE NORTH  $56^{\circ}05'06''$  WEST, A DISTANCE OF 201.63 FEET TO A PLACED 5/8" REBAR WITH A PLASTIC CAP STAMPED P.L.S. 2115; THENCE SOUTH  $35^{\circ}33'44''$  WEST, A DISTANCE OF 149.94 FEET TO AN INTERSECTION WITH THE SAID NORTHERLY RIGHT OF WAY LINE AT THE 5/8" REBAR AND THE SAID POINT OF BEGINNING.

AND LESS "ALAMAR GARDENS SUBDIVISION", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK H AT PAGE 56 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA.