

## MEMORANDUM

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To: Gainesville City Commission  
 From: Thomas Hawkins  
 Date: August 19, 2008  
 Re: Referral of Design Criteria for Neighborhood Centers to Plan Board

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This memorandum discusses the “neighborhood center,” a tool the City of Gainesville 2000-2010 Comprehensive Plan has created to require traditional town planning in retail and commercial areas. As I discussed at our Strategic Planning retreat in June, the Comprehensive Plan generally endorses planning elements such as the use of the city block, integration of mixed land uses, and design of transportation facilities to accommodate multiple modes of transportation, in order to improve the welfare of Gainesville residents.

One way in which the Comprehensive Plan does this is by consistently calling for existing shopping centers to be redeveloped, and new shopping centers to be developed, as walkable, mixed use, neighborhood centers. Florida Statutes, in turn, require development within Gainesville to be consistent with our Comprehensive Plan.<sup>1</sup>

Development of neighborhood centers consistent with the Comprehensive Plan, however, has not generally been Gainesville’s practice. I believe this is in part because Gainesville’s Land Development Code does not effectively implement the Comprehensive Plan. This memorandum discusses the requirements of the Comprehensive Plan regarding neighborhood centers, provides some examples of inconsistencies between the Comprehensive Plan and the Land Development Code, and recommends referring this matter to the Plan Board.

## I. Neighborhood centers generally

The Comprehensive Plan generally uses the terms “neighborhood center” and “activity center” interchangeably to refer to focal points of retail or commercial activity within the City of Gainesville.<sup>2</sup> The data and analysis supporting the Urban Design Element notes that Gainesville has nineteen such centers including the University of Florida.<sup>3</sup> While the Comprehensive Plan itself does not identify these nineteen areas, the Future Land Use Element data and analysis provides a map showing their location in the city.<sup>4</sup> The Future Land Use Element data and analysis also notes that “[t]he MUM district will be used to designate community-servicing neighborhood centers.”<sup>5</sup> Accordingly, many neighborhood centers have a Future Land Use Designation of Mixed-Use Medium-Intensity (or MUM).<sup>6</sup>

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<sup>1</sup> “After a comprehensive plan, or element or portion thereof, has been adopted in conformity with this act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted.”

<sup>2</sup> § 163.3194(1)(a), Florida Statutes (2008).

<sup>3</sup> For example, Future Land Use Element Objective 1.3 and its expounding policies interchangeably use the terms “neighborhood center,” “activity center,” and “neighborhood (activity) centers” to refer to neighborhood centers.

<sup>4</sup> Urban Design Element—Data & Analysis, Ord. No. 990852—Petition No. 183CPA-99 PB, Eff. Date 7/24/00 at 3.

<sup>5</sup> Future Land Use Element—Data & Analysis, Petition 163COA-00PB, February 6, 2001 at 19.

<sup>6</sup> *Id.* at 17.

<sup>7</sup> Compare City of Gainesville Comprehensive Plan Future Land Use Atlas with Future Land Use Element—Data & Analysis, Petition 163COA-00PB, February 6, 2001 at 19.

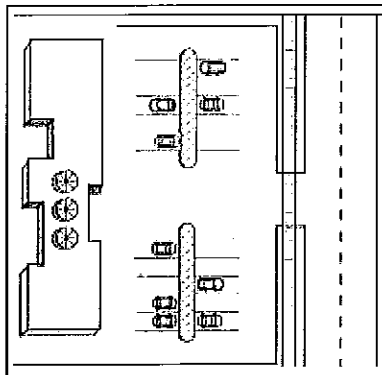
**II. The Comprehensive Plan requires development within neighborhood centers to adhere to traditional town planning principals**

**A. Future Land Use Element Objective 1.3 provides guidelines for mixed use, pedestrian accessible, neighborhood centers**

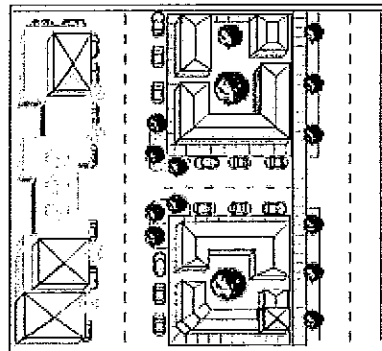
Future Land Use Element Objective 1.3 is to “[a]dopt land development regulations that guide the transformation of conventional shopping centers into walkable, mixed-use neighborhood (activity) centers.”<sup>7</sup> This objective’s supporting policies provide standards for development within neighborhood centers. Among other things, those policies stipulate that development within neighborhood centers should:

- “be designed to include a gridded, interconnected street network lined with street-facing buildings and buildings at least 2 stories in height;”<sup>8</sup>
- “contain a range of mixed land use types” which are “compact, and vertically and horizontally mixed;”<sup>9</sup> and
- include “parking lots and garages [which] should be subordinated, and limited in size.”<sup>10</sup>

To enunciate these standards, Objective 1.3 provides the following illustrated comparison between the conventional shopping center, which the Comprehensive Plan disallows in neighborhood centers, and the form of development which would be consistent with Objective 1.3.



*Existing Conventional Shopping Center*



*Conversion to a Neighborhood Center*

The most striking distinction between the two figures is that the neighborhood center is accessible by streets and includes buildings with little or no street side setback. In contrast, the shopping center is only accessible by driveways and includes buildings with a large street side setback.

<sup>7</sup> City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Element Objective 1.3.

<sup>8</sup> Id. at Policy 1.3.1.

<sup>9</sup> Id. at Policy 1.3.3.

<sup>10</sup> Id. at Policy 1.3.5.

## B. Mixed use future land use designations require mixed use development

The Future Land Use Element provides for six mixed use future land use designations. As previously mentioned, the Mixed-Use Medium-Intensity designation is an appropriate category for neighborhood centers.<sup>11</sup> Among other things, the Mixed-Use Medium-Intensity category provides:

- “development shall function as [a] neighborhood center serving multiple neighborhoods;”<sup>12</sup>
- “at least 10 percent of the floor area of new development or redevelopment of such sites be residential; or, that the surrounding area of equal or greater size than the development or redevelopment site, and within ¼ mile of the site, have a residential density of at least 6 units per acre;”<sup>13</sup> and
- “[b]uildings in this land use category shall face the street and have modest (or no) front setbacks.”<sup>14</sup>

Therefore, development within this land use category must meet relevant Comprehensive Plan standards for the design of neighborhood centers, must include residences, and cannot include buildings with more than a modest street side setback.

## C. Urban Design Element Policy 1.1.8 requires redevelopment of neighborhood centers to meet certain design standards

Urban Design Element Policy 1.1.8 states “[t]he City shall encourage the conversion of activity centers and **conventional shopping centers** into more traditional, livable town centers through redevelopment or addition of uses, features and structures specified in [Urban Design Element] Policy 1.1.7.”<sup>15</sup> Among other things, Urban Design Element Policy 1.1.7 requires that neighborhood centers include the following features:

- “Modest commercial build-to lines that pull the building up to a wide streetside sidewalk with a row of trees;”<sup>16</sup>
- “Modest instead of abundant off-street parking, located at the rear or side of buildings, and away from pedestrian areas;”<sup>17</sup>
- “Building facades facing the street and aligned to form squares, streets, plazas or other forms of a pleasant public realm;”<sup>18</sup>
- “A vertical mix of residences above non-residential uses within the center;”<sup>19</sup> and
- “No free-standing retail establishment within the center exceeding 30,000 square feet (or some set maximum) of first floor area,”<sup>20</sup>

<sup>11</sup> Future Land Use Element—Data & Analysis, Petition 163COA-00PB, February 6, 2001 at 17.

<sup>12</sup> City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Element Policy 4.1.1.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> City of Gainesville 2000-2010 Comprehensive Plan, Urban Design Element Policy 1.1.8, emphasis in original.

<sup>16</sup> Id. at Policy 1.1.7.

<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> Id.

Like its related policies in the Future Land Use Element, Urban Design Element Policy 1.1.8 requires that neighborhood centers be developed or redeveloped using traditional town planning elements such as mix of use, street side buildings and subordinated parking.

### **III. General Comprehensive Plan requirements for traditional town planning are applicable to neighborhood centers**

In addition to those Comprehensive Plan policies providing a framework for the development of neighborhood centers, other policies throughout the Comprehensive Plan reinforce the requirement for traditional town planning in neighborhood centers. These include:

- Transportation Mobility Element Policy 2.1.10 which provides: “In new development or redevelopment, walking shall be promoted by establishing modest, human-scaled dimensions such as small street blocks, pedestrian-scaled street and building design, [and] ample sidewalks to carry significant pedestrian traffic in commercial areas.”<sup>21</sup>
- Transportation Mobility Element Policy 3.1.2 which provides: “The City shall strive to link its land use and transportation planning by establishing neighborhood (activity) centers as ‘transit-oriented developments.’”<sup>22</sup>

And,

- Urban Design Element Policy 1.4.1 which provides: “In areas where the City seeks to promote transportation choices, all non-residential off-street parking shall be **placed to the rear or side** of the building, rather than in the front or otherwise adjacent to a street.”<sup>23</sup>

Therefore, the requirement for pedestrian scaled neighborhood centers built upon city blocks is not isolated to only a few policies. Rather, each element of the Comprehensive Plan addressing development design consistently prescribes the same planning principals.

### **IV. Current land development regulations frustrate application of the Comprehensive Plan**

As the Comprehensive Plan makes plain, requiring pedestrian oriented, mixed use neighborhood centers is Gainesville’s adopted public policy. Approved development orders, however, are not always consistent with the Comprehensive Plan. A reason for this is that the City Commission has not adopted the Land Development Code regulations needed to easily effect the Comprehensive Plan. Inconsistencies between the Comprehensive Plan and Land Development Code essentially come in three varieties: instances where the Comprehensive Plan provides a standard but the Land Development Code is silent; instances where the Comprehensive Plan provides a standard and the Land Development Code provides a conflicting standard; and instances where the Comprehensive Plan clearly states public policy but does not provide any enforceable standard.

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<sup>21</sup> City of Gainesville 2000-2010 Comprehensive Plan, Transportation Management Element Policy 2.1.10.

<sup>22</sup> Id. at Policy 3.1.2.

<sup>23</sup> City of Gainesville 2000-2010 Comprehensive Plan, Urban Design Element Policy 1.4.1, emphasis in original.

**A. Instances where the Comprehensive Plan provides a standard but the Land Development Code is silent**

In some instances the Land Development Code does not include any rule to implement an adopted policy. For example, the Comprehensive Plan provision for the Mixed-Use Medium-Intensity land use category requires “at least 10 percent of the floor area of new development or redevelopment of such sites be residential.”<sup>24</sup> The Land Development Code, however, does not require development projects to be mixed use in the implementing Mixed-use medium intensity zoning district.<sup>25</sup> In this instance, the City Commission has not adopted a regulation to implement its Comprehensive Plan. Pursuant to Florida Statutes, the Comprehensive Plan regulates approval of development orders in this circumstance.<sup>26</sup>

**B. Instances where the Comprehensive Plan provides a standard and the Land Development Code provides a conflicting standard**

Identifying inconsistencies when the Land Development Code is silent, and then referring to the Comprehensive Plan, is relatively easy. Unfortunately, at times the Comprehensive Plan and Land Development Code provide standards which are apparently at odds with each other but which the City Commission may have determined are consistent. For example, the Comprehensive Plan provides that “[b]uildings in [the Mixed-Use Medium-Intensity] land use category shall face the street and have modest (or no) front setbacks.”<sup>27</sup> In the implementing Mixed use medium intensity (MU-2), zoning category, however, the Land Development Code permits a street side setback of up to eighty feet.<sup>28</sup> Given that one intent of the Future Land Use Element is to scale development so that “housing, jobs, daily needs and other activities are within easy walking distance of each other,” an eighty foot street side setback appears to be more than “modest.”<sup>29</sup>

When the Comprehensive Plan and Land Development Code are in apparent conflict, Florida Statutes provide that the Comprehensive Plan controls. The relevant provision states,

any land development regulations existing at the time of adoption which are not consistent with the adopted comprehensive plan, or element or portion thereof, shall be amended so as to be consistent. If a local government allows an existing land development regulation which is inconsistent with the most recently adopted comprehensive plan, or element or portion thereof, to remain in effect, the local government shall adopt a schedule for bringing the land development regulation into conformity with the provisions of the most recently adopted comprehensive plan, or element or portion thereof. During the interim period when the provisions of the most recently adopted comprehensive plan, or element or portion thereof, and the land development regulations are inconsistent, the provisions of the most

<sup>24</sup> City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Element Policy 4.1.1.

<sup>25</sup> See, City of Gainesville Land Development Code, § 30-65.

<sup>26</sup> “After a comprehensive plan, or element or portion thereof, has been adopted in conformity with this act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted.” § 163.3194(1)(a), Florida Statutes (2008).

<sup>27</sup> City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Element Policy 4.1.1.

<sup>28</sup> City of Gainesville Land Development Code, § 30-65(d)(2)c.3.

<sup>29</sup> City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Policy 1.1.2.

recently adopted comprehensive plan, or element or portion thereof, shall govern any action taken in regard to an application for a development order.<sup>30</sup>

In this particular example, however, the City Commission adopted the eighty foot street side setback in 2003, after it adopted the Comprehensive Plan.<sup>31</sup> If that 2003 amendment occurred consistent with law, then the City Commission determined the eighty foot setback implemented the Comprehensive Plan.<sup>32</sup> Where the Comprehensive Plan and Land Development Code directly conflict, therefore, the correct rule is found in the Comprehensive Plan unless the City Commission adopted the questionable regulation after the Comprehensive Plan.

**C. Instances where the Comprehensive Plan clearly states public policy but does not provide any enforceable standard**

The Comprehensive Plan makes it plain in the Future Land Use Element, the Transportation Mobility Element, and the Urban Design Element, that all new development and redevelopment should include city blocks so that Gainesville is accessible to multiple modes of transportation and provides a network of small streets carrying dispersed traffic.<sup>33</sup> Neither the Comprehensive Plan, nor the Land Development Code, however, provide standards to implement this requirement. No rules define the difference between a street and a driveway. No rules provide acceptable dimensions for block faces or total block area. Without such standards, any enforcement of this policy would be arbitrary. Where the neither the Comprehensive Plan nor the Land Development Code provide any standards, therefore, Gainesville must adopt implementing regulations in order to enforce a given policy.

**V. Recommended referral to Plan Board**

I recommend that the City Commission (1) request that the Plan Board recommend amendments to the Land Development Code sufficient to implement Objective 1.3 of the Future Land Use Element and Policies 1.1.7 and 1.1.8 of the Urban Design Element, (2) request that the Plan Board specifically include in its recommendation standards for the use of connected streets and city blocks, and (3) request that the City Manager apply applicable Comprehensive Plan policies when reviewing all future development applications for neighborhood centers.

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<sup>30</sup> § 163.3194(1)(b), Florida Statutes (2008).

<sup>31</sup> City of Gainesville Ordinance No. 020590/0-03-19, April 15, 2003.

<sup>32</sup> See, § 163.3202, Florida Statutes (2008), requiring each local government to adopt land development regulations which are consistent with and implement its adopted comprehensive plan.

<sup>33</sup> See, e.g., City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Element Policies 1.2.7 and 1.3.1, Transportation Mobility Element Policies 2.1.10 and 6.1.7, and Urban Design Element Policy 1.1.7, Objective 1.3, and Policies 1.3.1, and 1.3.2.