



# MEMORANDUM

Office of the City Attorney

Box 46

Phone: 334-5011/Fax 334-2229

TO: Mayor and City Commission

DATE: August 22, 2005

FROM: City Attorney

CITY ATTORNEY  
SECOND READING

SUBJECT: Ordinance No. 0-05-19, Petition 24LUC-04PB

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 categories of "RES 2-4: Residential, 2-4 dwelling units per acre", "INST, Institutional", and "OFF/R 4-8: Office/Residential, 4-8 dwelling units per acre" to the City of Gainesville land use category of "Office", as more specifically described in this Ordinance, generally located in the vicinity of and including the Oak Hammock retirement community, and certain properties along Williston Road including 2521 Southwest Williston Road; 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

The original petition included land that was part of a utility easement located along the eastern boundary of the Oak Hammock development and part of a property that houses a Progress Energy substation. Both pieces of land are part of larger parcels and because the land is split between Alachua County and the City of Gainesville, it was felt that the proposed City land use and zoning designations should be as close as possible to the Alachua County land use and zoning designations. The current Alachua County land use designation for the 2 pieces of land is Residential (2-4 dwelling units per acre), with a zoning of R-1A (Single-family, low density). The proposed City of Gainesville designations were SF (Single Family, up to 8 units per acre) land use and RSF-1 (3.5 units/acre single-family residential district) zoning.

### CITY ATTORNEY MEMORANDUM

On April 11, 2005 the City Commission adopted Ordinance No. 0-05-05 (Petition No. 167LUC-04 PB, Future Land Use Element) on first reading for transmittal to the Department of Community Affairs (DCA).


The State of Florida Department of Community Affairs issued a letter dated June 20, 2005, stating that this amendment need not be formally reviewed for consistency with Chapter 163, F.S. The

Department also waived preparing an Objections, Recommendations and Comments Report. A copy of their letter is attached to this memorandum. Therefore, the City may now proceed with the final adoption of this ordinance.

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The second hearing will be held at the adoption stage of the ordinance and must be advertised approximately five (5) days after the day that the second advertisement is published.

If adopted on second reading, the Plan amendment will not become effective until the State Department of Community Affairs 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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STATE OF FLORIDA  
**DEPARTMENT OF COMMUNITY AFFAIRS**

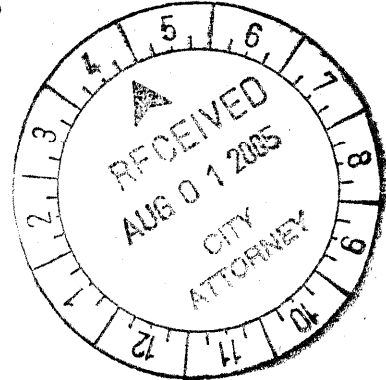
*"Dedicated to making Florida a better place to call home"*

JEB BUSH  
 Governor

THADDEUS L. COHEN, AIA  
 Secretary

June 20, 2005

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



Dear Mayor Hanrahan:

The Department of Community Affairs has completed its review of the proposed Comprehensive Plan Amendment for the City of Gainesville (DCA No. 05-1), which was received on April 21, 2005. The Department has reviewed the comprehensive plan amendment for consistency with Rule 9J-5, Florida Administrative Code (F.A.C.) and Chapter 163, Part II, Florida Statutes (F.S.) and has prepared the attached Objections, Recommendations, and Comments (ORC) Report which outlines our findings concerning the comprehensive plan amendment. Recommendations to address identified issues have been included and are designed to strengthen the amendment and help the community achieve its planning objectives, while complying with state law.

Attached to this letter is a summary of the procedures for the City to follow upon receipt of this letter in formulating a response to the attached ORC Report as it considers further action upon the proposed amendments up to and including adoption of these amendments. Copies of the proposed amendment have been distributed to appropriate state, regional and local agencies for their review and their comments are enclosed for your consideration. Within the next 60 days, the City should act by choosing to adopt, adopt with changes or not adopt the proposed amendment.

The proposed amendment consists of one (1) text amendment to Future Land Use Element (FLUE), two (2) Future Land Use Map (FLUM) amendments, and an update to the five-year schedule of capital improvements in the Capital Improvements Element (CIE).

The Department has no objections to the FLUM amendments or the proposed update to the five-year schedule of capital improvements. However, the Department has concerns regarding the text amendment to the Future Land Use Element. As proposed, the amendment would remove the intensity standard for the Office and Commercial future land use designation by allowing the current 5-story height limitation to be exceeded by Special Use Permit. While the Department commends the City on its commitment to the comprehensive planning process

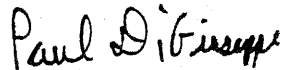
2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100  
 Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781  
 Internet address: <http://www.dca.state.fl.us>

The Honorable Mayor Hanrahan  
June 20, 2005  
Page 2

and its dedication to preserving the urban form of Gainesville, while allowing flexibility for innovating planning techniques, the policies defining the City's future land use categories must contain predictable intensity standards.

I believe the concerns outlined in our report can be resolved in a straightforward manner. We are available to work with your staff to assist the City in responding to our concerns as outlined in the attached report and developing a mutually acceptable solution. If you or your staff have any questions about our attached Report or if we may be of further assistance as you formulate your response to this Report, please contact Ana Richmond, Senior Planner, at (850) 922-1794.

Sincerely,



Paul DiGiuseppe  
Regional Planning Administrator

PD/ar

Enclosures: Transmittal Procedures  
Review Agency Comments

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

D R A F T

March 28, 2005

ORDINANCE NO. \_\_\_\_\_  
0-05-19

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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 categories of “RES 2-4:**  
8       **Residential, 2-4 dwelling units per acre”, “INST, Institutional”,**  
9       **and “OFF/R 4-8: Office/Residential, 4-8 dwelling units per**  
10       **acre” to the City of Gainesville land use category of “Office”, as**  
11       **more specifically described in this Ordinance, generally located**  
12       **in the vicinity of and including the Oak Hammock retirement**  
13       **community, and certain properties along Williston Road**  
14       **including 2521 Southwest Williston Road; providing a**  
15       **severability clause; providing a repealing clause; and providing**  
16       **an effective date.**

17  
18  
19       **WHEREAS**, publication of notice of a public hearing was given that the Future Land Use  
20 Map be amended by changing the land use categories of certain properties annexed into the City  
21 from the Alachua County land use categories of “RES 2-4: Residential, 2-4 dwelling units per  
22 acre”, “INST, Institutional”, and “OFF/R 4-8: Office/Residential, 4-8 dwelling units per acre” to  
23 the City of Gainesville land use category of “Office”; and

24       **WHEREAS**, notice was given and publication made as required by law and a public  
25 hearing was held by the City Plan Board on December 2, 2004; and

26       **WHEREAS**, pursuant to law, an advertisement no less than two columns wide by 10  
27 inches long was placed in a newspaper of general circulation notifying the public of this proposed  
28 ordinance and of the Public Hearing to be held in the City Commission Meeting Room, First Floor,

**D R A F T**

March 22, 2005

1 City Hall, in the City of Gainesville at least seven (7) days after the day the first advertisement was  
2 published; and

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

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

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

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

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

14         **Section 1.** The Future Land Use Map of the City of Gainesville 2000-2010 Comprehensive  
15 Plan is amended by changing the land use categories of the following described properties from the  
16 Alachua County land use categories of “RES 2-4: Residential, 2-4 dwelling units per acre” ,  
17 “INST, Institutional”, and “OFF/R 4-8: Office/Residential, 4-8 dwelling units per acre” as shown  
18 on Exhibit “A” to the City of Gainesville land use category of “Office” as shown on Exhibit “B”;  
19 and:



**D R A F T**

**March 22, 2005**

1 CLERK OF THE COMMISSION

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3 This ordinance passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2005.

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5 This ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2005.

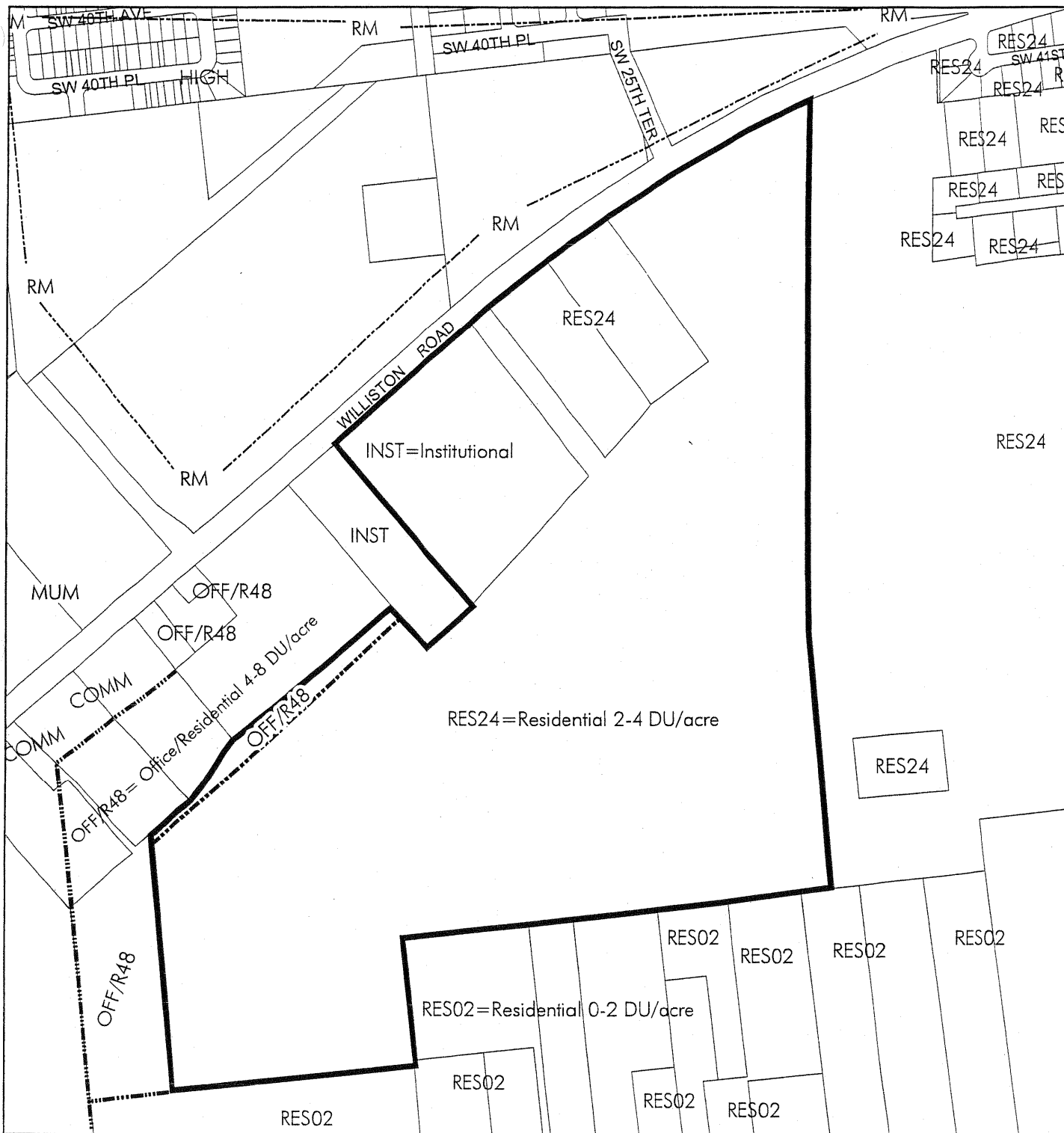
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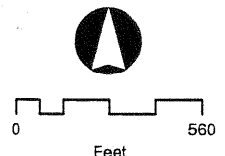
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# MAP 1 - EXISTING LAND USE



Petition 24LUC-04 PB

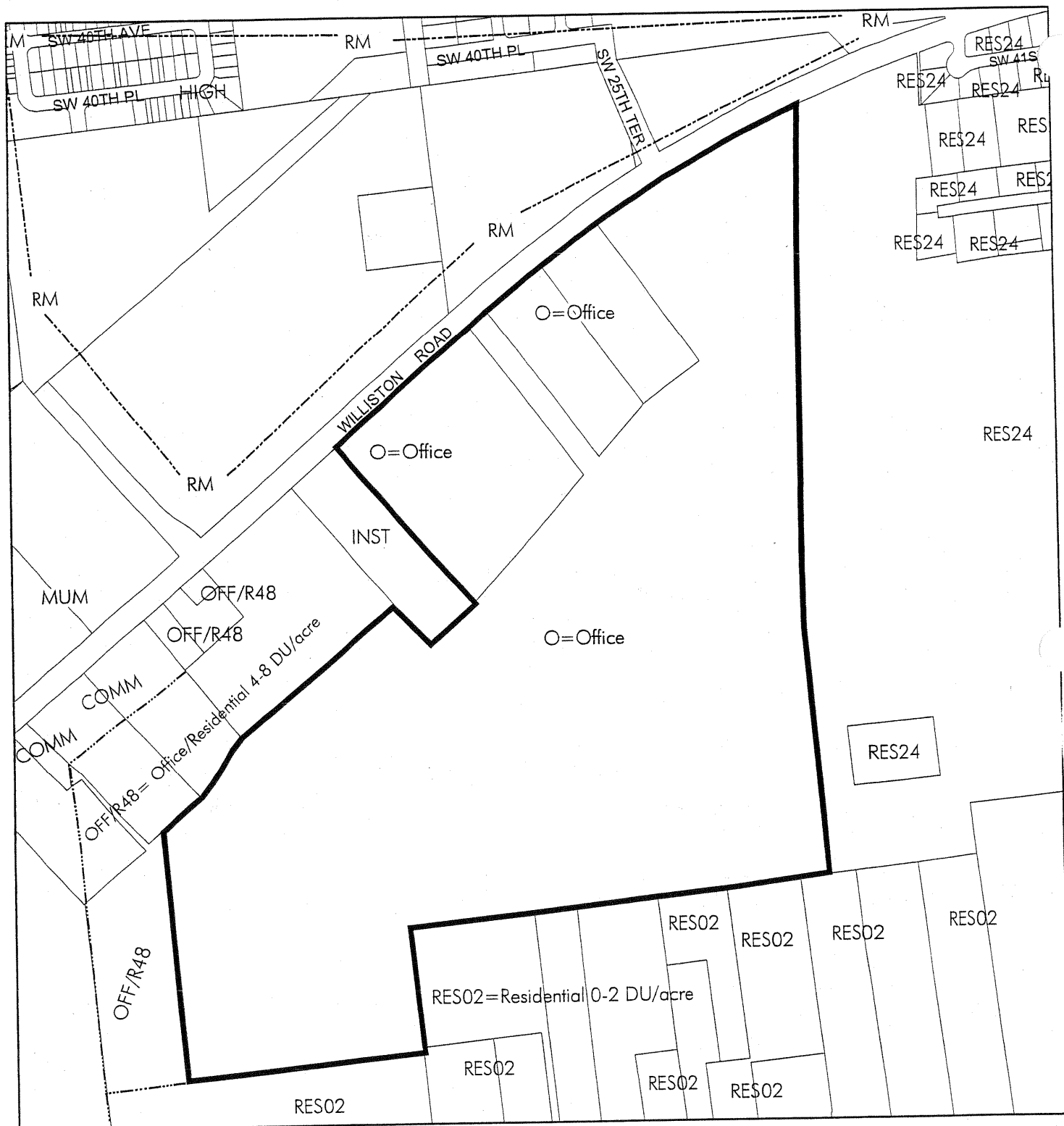


Prepared by the Department of Community Development/GIS 02-21-05

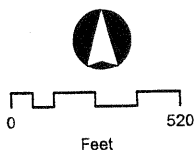
This map is for informational purposes only. Do not rely on this map for accuracy of dimensions, size or location. The City of Gainesville does not assume responsibility to update this information or for any error or omission on this map. For specific information, you are directed to contact the City of Gainesville, Florida.

# EXHIBIT "A"

# MAP 2 - PROPOSED LAND USE



Petition 24LUC-04 PB



Prepared by the Department of Community Development/GIS 02-21-05

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## EXHIBIT "B"