



MEMORANDUM

Office of the City Attorney

LEGISLATIVE ITEM NO. 001917

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TO: Mayor and City Commission

DATE: December 10, 2001

FROM: City Attorney

**CITY ATTORNEY
SECOND READING**

SUBJECT: Ordinance No. 0-01-63, Petition No. 106TCH-01PB

An ordinance of the City of Gainesville, Florida, amending Section 30-69 of the Land Development Code by repealing certain uses permitted by right, and by clarifying the findings for special use permits in the "I-1: Limited industrial district"; amending Section 30-70 of the Land Development Code by repealing certain uses permitted by right, by changing certain uses to uses permitted by special use permit, and by clarifying the findings for special use permits in the "I-2: General industrial district"; amending Section 30-345 of the Land Development Code entitled "General Performance Standards" by changing the standards of performance for all uses and activities in all zoning districts of the City; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Recommendation: The City Commission adopt the proposed ordinance.

COMMUNITY DEVELOPMENT STAFF REPORT

In May 2001, the City of Gainesville placed a moratorium on 48 manufacturing uses. The moratorium was put in effect to allow the City to determine whether the 48 manufacturing uses or other uses allowed in the City's industrial zones should, based on their environmental or nuisance impacts, be prohibited, restricted as a special use, or allowed subject to performance standards. In order to make these determinations, the City hired a consultant to perform a study to evaluate its industrial areas and to make recommendations on changes to its regulations

The study found that the majority of the uses allowed in the I-1 district are appropriate given that the purpose of this district is to provide locations for retail-commercial sales and services, research operations, distributions concerns and light manufacturing. However, staff and the consultant are recommending that the uses shown in Table 4.1 be removed from I-1 and placed in the I-2 district.

In the I-2 district, the uses listed in Table 4.2 should be removed from the list of allowable uses. These uses are determined to be inappropriate within the City of Gainesville, given the pollution potential of these uses, the size and location of most of the I-2 areas, and the proximity of residential and other incompatible uses to I-2 districts. It should be noted that it is

highly improbable that a number of these uses could economically locate in the City. The consultant's report recommended that several uses (raw cane sugar, beet sugar, soybean oil mills and distilled liquor) could be allowed by special use permit. However, it is staff's recommendation that these uses be prohibited.

In table 4.3, the consultant recommended that asphalt paving mixtures and blocks (IN-2951) should be allowed as a use by right, if clean-burning, low sulfur fuel is used and by Special Use Permit, if it is not. Staff recommends that this use be allowed in the I-2 district by Special Use Permit, even if the clean-burning fuel is used by the industry. Special use permits are intended for developments that, due to the nature, extent and external effects, require special care in the control of location, design, and methods of operations. Requiring a special use permit for this use will allow for additional review to determine whether the use is compatible with surrounding areas. The consultant's report states that some of the uses may be appropriate in certain 1-2 areas and inappropriate in others. It is staff's opinion that the only way to make this determination for the uses in Table 4.3, is through the special use permit process. The criteria for issuing a special use permit are listed in Section 30-233 of the Land Development Code.

The Consultant has also recommended changes to the City's general performance standards, based on a review of similar standards from municipalities throughout the United States. The general performance standards apply to all uses and activities permitted in any zoning district while certain amendments apply particularly to the industrial zones (I-1 and I-2). Impacts of concern are fire and explosion hazards, radiation, electromagnetic interference, vibration, sound, glare and lighting, odor, and waste disposal. In addition to these impacts, impacts of concern that are associated primarily with industrial activities are impacts due to air pollution, toxics and hazardous materials storage. Staff, based on the consultant's study and further review, recommends that Section 30-345 General Performance Standards be amended as recommended by the Consultant, with the exception that changes to the noise section be reflected in the noise ordinance, and that changes to the glare and lighting section be reviewed as part of the lighting ordinance changes.

Public notice was published in the Gainesville Sun in a legal ad on October 2, 2001 and in a 2 x 10 display ad on October 3, 2001. The Plan Board held a public hearing October 18, 2001. Planning Division staff recommended that the Plan Board approve the petition, with staff recommendations. The Plan Board recommended that the City Commission approve Petition 106TCH-01 PB, with staff recommendations. Plan Board vote 5-0.

CITY ATTORNEY MEMORANDUM

A large scale advertisement appeared in the Gainesville Sun notifying the public of the public hearing of this ordinance.

Prepared and Submitted by:



Marion J. Radson, City Attorney

MJR/afm

Attachment

Passed on first reading on 11/26/01 as revised by a vote of 4-1.