

MEMORANDUM

Office of the City Attorney

LEGISLATIVE ITEM NO. 041055

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

TO: Mayor and City Commission

DATE: July 11, 2005

FROM: City Attorney

CITY ATTORNEY
ADOPTION READING

SUBJECT: Ordinance No. 0-05-61, Petition 30LUC-05PB
An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Map; by changing the land use category of certain property annexed into the City from the Alachua County land use category of "COMM, Commercial" to "Office"; located in the vicinity of 3814 Northwest 43rd Street; providing a severability clause; providing a repealing clause; and providing an effective date.

Recommendation: The City Commission: 1) approve Petition 30LUC-05PB; and 2) adopt the proposed ordinance.

STAFF REPORT

This petition was originally submitted for Plan Board recommendation at the March 17, 2005, Plan Board meeting. The Plan Board voted to continue this petition pending further analysis of the proposal for the property adjacent and west of the subject property. Since the March 17th meeting, the owner of this adjacent property has agreed to submit a separate petition for a city land use designation for the property. Therefore, this petition is being re-submitted to only address the property at 3814 Northwest 43rd Street.

The subject property is 0.95 acres in size. The 0.95-acre parcel currently is developed as a Sun Trust Bank. The property was annexed into the city in 2004. This property must be brought into conformance with the City's Comprehensive Plan. This requires amending the City's Future Land Use map to include the property. This petition would amend the City's Future Land Use map.

Planned Unit Development (PUD) land use is east of the property. County Commercial land use is adjacent to the west. County medium-high density residential land use is adjacent and developed to the north. County Commercial land use is adjacent and developed to the south.

The character of the nearby property is largely suburban office and medium-density residential. Because the character of nearby properties is compatible, this property is most suitably given an Office land use. Banking facilities are an allowable use within the City's Office land use category.

The Plan Board heard the petition and recommended approval.

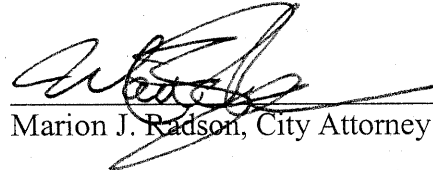
Public notice was published in the Gainesville Sun on May 3, 2005. Letters were mailed to surrounding property owners on May 4, 2005. The Plan Board held a public hearing May 19, 2005. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board recommended that the City Commission approve Petition 30LUC-05 PB. Plan Board vote 6-0.

CITY ATTORNEY MEMORANDUM

The proposed amendment to the Comprehensive Plan is treated as a small scale development activity. After the City Commission adopts the ordinance, it will be filed with the State Land Planning Agency. The state land planning agency does not review or issue a notice of intent for small scale development amendments. Any affected person may file a petition with the State Division of Administrative Hearings to request a hearing to challenge the compliance of a small scale development amendment within 30 days following the City's adoption of the amendment.

Small scale development amendments do not become effective until 31 days after adoption. If challenged within 30 days after adoption, small scale development amendments shall not become effective until the state land planning agency or the Administration Commission issues a final order that the adopted small scale development amendment is in compliance.

Prepared and
submitted by:


Marion J. Radson, City Attorney

MJR/afm
Attachment

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D R A F T

5/27/05

ORDINANCE NO. _____
0-05-61

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3
4 **An ordinance amending the City of Gainesville 2000-2010**
5 **Comprehensive Plan, Future Land Use Map; by changing the**
6 **land use category of certain property annexed into the City from**
7 **the Alachua County land use category of “COMM,**
8 **Commercial” to “Office”; located in the vicinity of 3814**
9 **Northwest 43rd Street; providing a severability clause; providing**
10 **a repealing clause; and providing an effective date.**

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12
13 **WHEREAS**, publication of notice of a public hearing was given that the Future Land Use
14 Map be amended by changing the land use category of certain property annexed into the City from
15 the Alachua County land use category of “COMM, Commercial” to the City of Gainesville land use
16 category of “Office”; and

17 **WHEREAS**, notice was given and publication made as required by law and a public
18 hearing was held by the City Plan Board on May 19, 2005; and

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

25 **WHEREAS**, at least ten (10) days notice has been given of a public hearing once by
26 publication in a newspaper of general circulation notifying the public of this proposed ordinance

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1 and of a Public Hearing in the City Commission meeting room, First Floor, City Hall in the City of
2 Gainesville; and

3 **WHEREAS**, pursuant to law, notice has also been given by mail to the owner whose
4 property will be regulated by the adoption of this Ordinance, at least thirty days prior to the date set
5 for a public hearing on this ordinance; and

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

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

11 **Section 1.** The Future Land Use Map of the City of Gainesville 2000-2010 Comprehensive
12 Plan is amended by changing the land use category of certain property annexed into the City from
13 the Alachua County land use category of "COMM, Commercial" to the City of Gainesville land use
14 category of "Office":

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

17
18 **Section 2.** The City Manager is authorized and directed to make the necessary changes in
19 maps and other data in the City of Gainesville 2000-2010 Comprehensive Plan, or element, or
20 portion thereof in order to comply with this ordinance.

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1 **Section 3.** If any section, sentence, clause or phrase of this ordinance is held to be invalid
2 or unconstitutional by any court of competent jurisdiction then said holding shall in no way affect
3 the validity of the remaining portions of this ordinance.

4 **Section 4.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
5 such conflict hereby repealed.

6 **Section 5.** This ordinance shall become effective immediately upon passage; however, the
7 amendment to the City of Gainesville 2000-2010 Comprehensive Plan shall become effective thirty
8 one (31) days after passage and adoption of this Ordinance unless a petition is filed with the
9 Division of Administrative Hearings pursuant to § 163.3187(3), F.S. In this event this Ordinance
10 shall not become effective until the state land planning agency issues a final order determining the
11 adopted amendment to be in compliance in accordance with § 163.3187, or until the Administration
12 Commission issues a final order determining the adopted amendment to be in compliance in
13 accordance with § 163.3187, F.S.

14 **PASSED AND ADOPTED** this _____ day of _____, 2005.

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PEGEEN HANRAHAN, MAYOR

APPROVED AS TO FORM AND LEGALITY:

ATTEST:

KURT LANNON,
CLERK OF THE COMMISSION

MARION J. RADSON, CITY ATTORNEY

D R A F T

5/27/05

1
2 This ordinance passed this _____ day of _____, 2005.
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4 H:\Marion Radson\Planning\30LUC-05PB pet.DOC

Petition 30LUC-05 PB

DESCRIPTION FOR SUN BANK PROPERTY AT THE NORTHWEST CORNER OF
NW 39TH AVENUE AND 43RD STREET

TAX PARCEL #6111-001-000 (TAKEN FROM OFFICIAL RECORDS BOOK 1453,
PAGE 76)

THE NORTH 295 FEET OF THE EAST 243 FEET OF LOT ONE (1) OF A
SUBDIVISION OF SECTION 27, TOWNSHIP 9 SOUTH, RANGE 19 EAST, AS
RECORDED IN PLAT BOOK "A", PAGE 55, OF THE PUBLIC RECORDS OF
ALACHUA COUNTY, FLORIDA, LESS RIGHTS-OF-WAY FOR N.W. 39TH
AVENUE AND N.W. 43RD STREET.

City of Gainesville

Inter-Office Communication

Planning Division
X5022, FAX x2282, Station 11

Item No. 11

Date: May 19, 2005

To: City Plan Board

From: Planning Division Staff

Subject: Petition 30LUC-05 PB. City of Gainesville. Amend the City of Gainesville 2000-2010 Future Land Use Map from Alachua County C (Commercial) to City of Gainesville O (Office). Located at 3814 Northwest 43rd Street. Related to Petition 31ZON-05 PB.

Recommendation

Staff recommends approval of Petition 30LUC-05 PB.

Explanation

This petition was originally submitted for Plan Board recommendation at the March 17, 2005, Plan Board meeting. The Plan Board voted to continue this petition pending further analysis of the proposal for the property adjacent and west of the subject property. Since the March 17th meeting, the owner of this adjacent property has agreed to submit a separate petition for a city land use designation for the property. Therefore, this petition is being re-submitted to only address the property at 3814 Northwest 43rd Street.

The subject property is 0.95 acres in size. The 0.95-acre parcel currently is developed as a Sun Trust Bank. The property was annexed into the city in 2004. This property must be brought into conformance with the City's Comprehensive Plan. This requires amending the City's Future Land Use map to include the property. This petition would amend the City's Future Land Use map.

Planned Unit Development (PUD) land use is east of the property. County Commercial land use is adjacent to the west. County medium-high density residential land use is adjacent and developed to the north. County Commercial land use is adjacent and developed to the south.

The character of the nearby property is largely suburban office and medium-density residential. Because the character of nearby properties is compatible, this property is most suitably given an Office land use. Banking facilities are an allowable use within the City's Office land use category.

Impact on Transportation Level-of-Service

Because the property is an existing bank, the application of a City land use designation will not have an impact on the level of service.

Compatibility of the proposal / surrounding land uses

Office land use is suitable for this area, as office land use is more compatible with nearby residential lands.

Environmental impacts and constraints

The subject property is not within the 100-year floodplain and is not associated with significant environmental features.

Whether the change promotes urban infill

This petition encourages retention of an existing bank within city limits.

Applicable Policies from the Gainesville Comprehensive Plan

Future Land Use Element

Policy 4.1.1 Land Use Categories on the Future Land Use Map shall be defined as follows:

Office. The Office land use category identifies areas appropriate for office and residential uses. This category is intended to identify appropriate areas for professional and service uses, hospital and medical uses, compound and residential uses, and appropriate ancillary uses. Office designations shall be applied to compact office development. Residential uses in office districts shall be designed as new in-town development, mixed use, live-work, compound use or shall accommodate existing residential development within the district. Densities shall not exceed 20 units per acre. Land development regulations shall determine the appropriate scale of uses; and the specific criteria for the siting of private schools and churches. Intensity will be controlled by adopting land development regulations that establish height limits of 5 stories or less, that require buildings to face the street, and modest build-to lines, instead of a maximum floor area ratio.

Policy 4.1.3 The City will review proposed changes to the Future Land Use Map by considering factors such as, but not limited to, the following:

1. Overall compatibility of the proposal;
2. Surrounding land uses;
3. Environmental impacts and constraints;
4. Whether the change promotes urban infill; and
5. Whether the best interests, community values, or neighborhood support is achieved.

In no case shall this or any other Policy in the Future Land Use Element indicate a presumption that the City shall support a change of designation of land use for any parcel.

Objective 4.4

Newly annexed lands shall retain land uses as designated by Alachua County until the Future Land Use Element of this Plan is amended.

Policy 4.4.1 Land use amendments shall be prepared for all annexed properties within one year of annexation.

Policy 4.4.2 Alachua County LOS standards shall apply until newly annexed lands are given land use designations in this Plan.

Impact on Affordable Housing

This application will have no impact on affordable housing.

Applicant Information	City of Gainesville.
Request	Amend the land use of the property from Alachua County Commercial to O (Office).
Existing Land Use Plan Classification	Alachua County Commercial.
Existing Zoning	Alachua County Business Professional.
Purpose of Request	Property was recently annexed by the City and must be given City land use designation in order to apply the Future Land Use provisions of the Gainesville Comprehensive Plan.
Location	SW corner of NW 39 th Avenue and NW 43 rd Street.
Size	0.95 acres

Existing Use Bank

Surrounding Land Uses

North Residential

South Offices

East Bank (office)

West Vacant

Surrounding Controls

	Existing Zoning	Existing Land Use
East	PD/O (Planned Development/Office)	PUD (Planned Unit Development)
South	Business Professional & Administrative/Professional (county)	Commercial (county)
West	Business Professional (county)	Commercial (county)
North	R-2 Multi-Family Residential (county)	Medium-High Density Residential (county)

Summary

The proposed land use change is consistent with the 2000-2010 Gainesville Comprehensive Plan, and is recommended for approval.

Respectfully submitted,



Ralph Hilliard
Planning Manager

RW:DM:DN

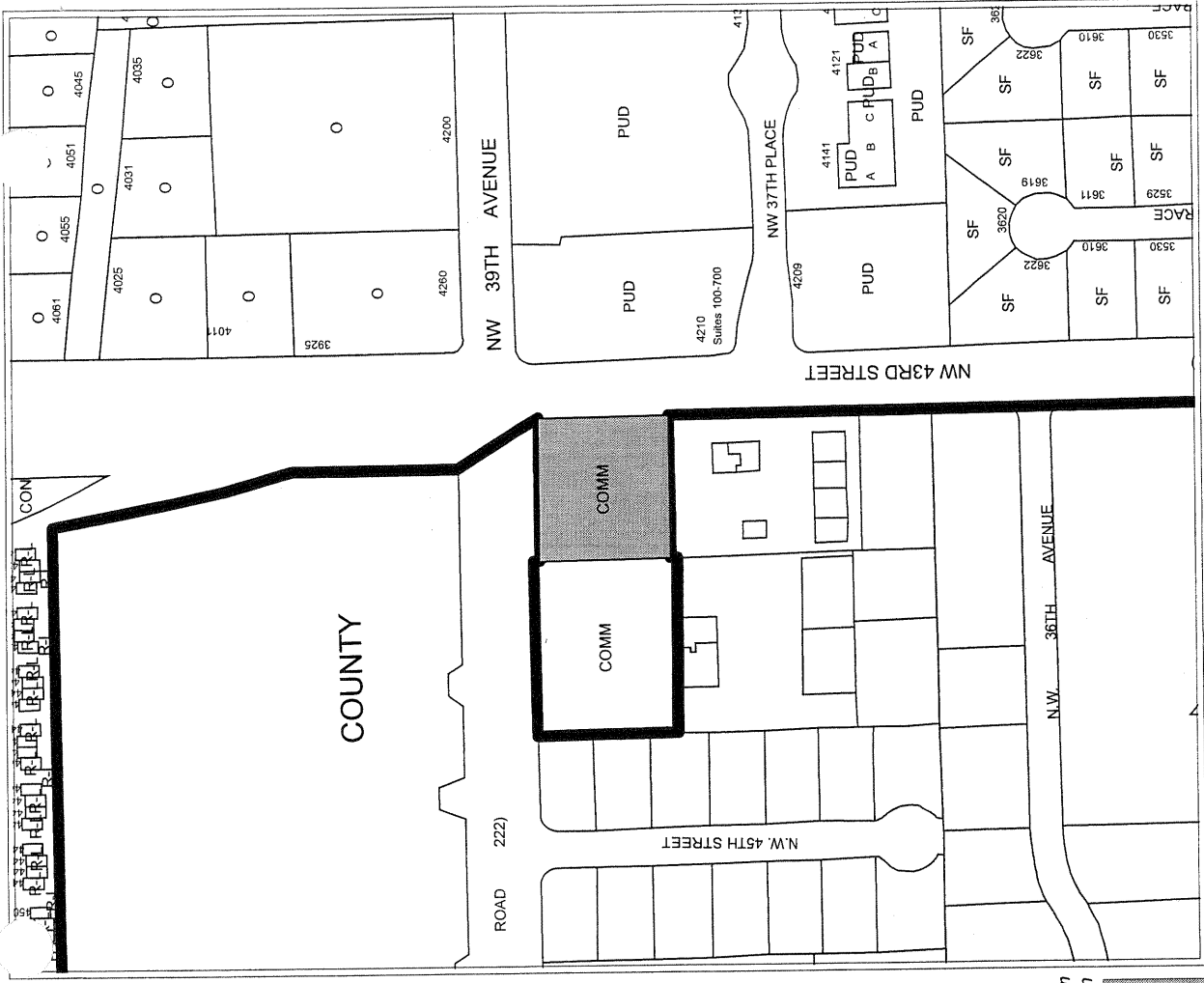
Attachment

Land Use Designations

- SF Single Family (up to 8 units per acre)
- RL Residential Low Density (up to 12 units per acre)
- RM Residential Medium Density (8-30 units per acre)
- RH Residential High Density (8-100 units per acre)
- MUR Mixed Use Residential (up to 75 units per acre)
- MUL Mixed Use Low Intensity (10-30 units per acre)
- MUM Mixed Use Medium Intensity (14-30 units per acre)
- MUH Mixed Use High Intensity (up to 150 units per acre)
- O Office
- C Commercial
- IND Industrial
- E Education
- REC Recreation
- CON Conservation
- AGR Agriculture
- PF Public Facilities
- PUD Planned Use District

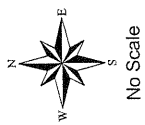
----- Division line between two land use districts
 _____ City Limits

Area under petition consideration



EXISTING LAND USE

Name	Petition Request	Map(s)	Petition Number
City of Gainesville	From Commercial (Alachua County) to O	3543	30LUC-05PB



Land Use Designations

- SF Single Family (up to 8 units per acre)
- RL Residential Low Density (up to 12 units per acre)
- RM Residential Medium Density (8-30 units per acre)
- RH Residential High Density (8-100 units per acre)
- MUR Mixed Use Residential (up to 75 units per acre)
- MUL Mixed Use Low Intensity (10-30 units per acre)
- MUM Mixed Use Medium Intensity (14-30 units per acre)
- MUH Mixed Use High Intensity (up to 150 units per acre)
- O Office
- C Commercial
- IND Industrial
- E Education
- REC Recreation
- CON Conservation
- AGR Agriculture
- PF Public Facilities
- PUD Planned Use District

Division line between two land use districts
 City Limits

Area under petition consideration



PROPOSED LAND USE

Name	Petition Request	Map(s)	Petition Number
City of Gainesville	From Commercial (Alachua County) to O	3543	30LUC-05PB



1. **Petition 30LUC-05 PB**

City of Gainesville. Amend the City of Gainesville 2000-2010 Future Land Use Map from Alachua County C (Commercial) to City of Gainesville O (Office). Located at 3814 Northwest 43rd Street. Related to Petition 31ZON-05 PB.

Mr. Dom Nozzi was recognized. Mr. Nozzi indicated that the petition was previously before the board as 2 properties, but the property to the west was no longer part of the petition. He explained that the property was annexed in 2004 and needed City land use and zoning designations placed upon it. He described the surrounding office and multi-family uses. He indicated that the proposed zoning would allow the existing use, Sun Trust Bank, on the property.

There was no board or public comment on the petition.

<u>Motion By:</u> Mr. Rwebyogo	<u>Seconded By:</u> Mr. Gold
<u>Moved to:</u> Approve Petition 30LUC-05 PB.	<u>Upon Vote:</u> Motion Carried 6 – 0 Ayes: Cohen, Gold, Rwebyogo, Reiskind, Tecler, Cole

**ADVERTISEMENT
NOTICE OF PROPOSED
ENACTMENT OF ORDINANCE BY CITY COMMISSION, GAINESVILLE, FLORIDA**

Notice is hereby given that the proposed ordinance, whose title appears below will be considered for Adoption Reading on the 11th day of July, 2005, at the City Commission meeting. The meetings begin at 6:00p.m. and the ordinances will be read as soon thereafter as may be heard. The meetings are held in the City Commission Auditorium, on the First Floor of City Hall, 200 East University Avenue, Gainesville, Florida. A copy of said ordinance may be inspected by any member of the public at the office of the Clerk of the Commission on the First Floor of City Hall during regular business hours located at 200 East University Avenue, Gainesville, Florida, and at the Public Library, Main Branch, located at 401 East University Avenue. On the dates mentioned above all interested parties may appear at the meeting and be heard with respect to the proposed ordinance. Persons with disabilities, who require assistance to participate in the meetings, are requested to notify the Equal Opportunity Office at 334-5051 or call the TDD phone line at least 2 business days in advance.

**ORDINANCE TITLE
ORDINANCE NO. 041055
0-05-61**

An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Map; by changing the land use category of certain property annexed into the City from the Alachua County land use category of "COMM, Commercial" to "Office"; located in the vicinity of 3814 Northwest 43rd Street; providing a severability clause; providing a repealing clause; and providing an effective date.

Note: "All persons are advised that, if any person decides to appeal any decision made at any of these meetings, they will need a record of the proceedings and, for such purpose, they need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based."

July 1, 2005

Publish Date
Clerk of the Commission

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