



City of Gainesville
Department of Doing
Planning Division

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CITY COMMISSION STAFF REPORT

PUBLIC HEARING DATE: November 15, 2018
ITEM NO: 180517
PROJECT NAME: East University Avenue Wawa Brownfield Designation
APPLICATION TYPE: Brownfield Designation
RECOMMENDATION: Staff recommends the City Commission approve Resolution 180517
CITY PROJECT CONTACT: Wendy Thomas

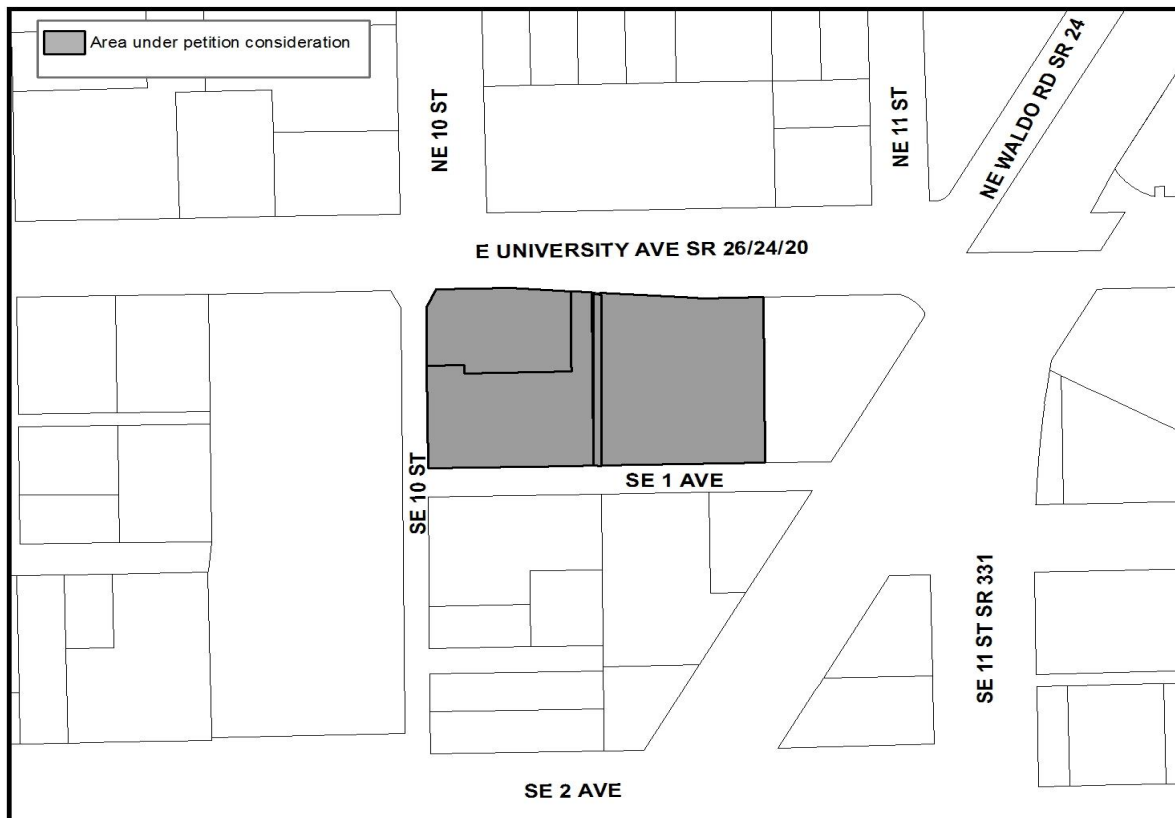


Figure 1: Location Map

APPLICATION INFORMATION:

Agent/Applicant: The Goldstein Environmental Law Firm, Inc.
Property Owner(s): BW University and 10th LLC
Legislative History: The City Plan Board held a public hearing on April 26, 2018 and voted 6-0 to approve Petition PB-18-35 SVA.
Neighborhood Workshop: October 16, 2018

SITE INFORMATION:

Address: 1007 and 1021 East University Avenue and 15 SE 10th Street
Parcel Number(s): 12007-000-000, 12007-001-000, 12005-000-000, & 12007-002-000
Acreage: 1.65
Existing Use(s): Vacant commercial
Land Use Designation(s): Urban Mixed Use
Zoning Designation(s): Urban 7
Overlay District(s): None
Transportation Mobility Program Area (TMPA): TMPA Zone A
Census Tract: 5
Water Management District: St. John’s River Water Management District
Special Feature(s): None
Annexed: 1905
Code Violations: None

ADJACENT PROPERTY CHARACTERISTICS:

	EXISTING USE(S)	LAND USE DESIGNATION(S)	ZONING DESIGNATION(S)
North	East University Avenue, Eating Place	Urban Mixed Use	Urban 7

South	SE 1st Avenue, Warehouse Storage, Vacant Commercial	Urban Mixed Use	Urban 7
East	Automobile Parts Store	Urban Mixed Use	Urban 7
West	SE 10th Street, Beverage Bottling Plant	Urban Mixed Use	Urban 6

PURPOSE AND DESCRIPTION:

Please see the map on page 1 for the location of the subject property, and Appendix A for the full map series.

STAFF ANALYSIS AND RECOMMENDATION:

This request is to designate the property as a Green Re-Use Area in order to qualify the property for incentives available through Florida’s Brownfields Redevelopment Program (the “BRP”). The Applicant is redeveloping the property with a Wawa gasoline station with 12 fueling positions, an approximately 5,564 square foot convenience store, and associated indoor and outdoor seating areas.

The BRP is a redevelopment tool administered by the Florida Department of Environmental Protection (“FDEP”). Remediation and reinvestment in brownfield properties facilitates job growth, utilizes existing infrastructure, increases local tax bases, removes development pressures on undeveloped open land, and both improves and protects the environment. By statutory definition, brownfields encompass real property where the expansion, redevelopment, or reuse of which has been or may be complicated by actual or perceived environmental contamination.

The criteria for approving brownfield area designation requests submitted by a person other than a local government as set forth in Florida Statutes § 376.80(2)(c)(1) - (5):

- A. The Applicant must own or control the property to be designated a brownfield area and agreed to redevelop and rehabilitate it.
- B. The Applicant must demonstrate that the rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity and long with at least 5 new permanent jobs.
- C. The Applicant must demonstrate that redevelopment of the site is consistent with the local comprehensive plan and a permissible use under the local land development regulations.

D. The Applicant must demonstrate that it provided the proper notice to neighbors and nearby residents and afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation.

E. The Applicant must demonstrate that it provided reasonable assurance it has sufficient financial resources to perform cleanup and redevelopment.

F. The Applicant must demonstrate that the property in question falls within the definition of a brownfield site.

Please see the Florida Brownfields Redevelopment Annual Report, dated August 2018, which can be found here: https://floridadep.gov/sites/default/files/2017-18_Brownfield_Redevelopment_Program_Annual_Report.pdf

ANALYSIS

The staff analysis is based on the criteria for approving brownfield area designation requests submitted by a person other than a local government as set forth in Florida Statutes § 376.80(2)(c)(1) - (5). If the Applicant successfully establishes these criteria, the local government is required to adopt the resolution approving the request and provide notice of the adoption to FDEP.

Brownfield Designation Review Criteria

A. The Applicant must own or control the property to be designated a brownfield area and agreed to redevelop and rehabilitate it.

A request for designation as a brownfield was submitted to the Department of Doing by the Applicant's agent on October 1, 2018, please see Appendix B. The Applicant's request and supporting documentation provided sufficient evidence of ownership, consisting of a Property Appraiser's Report and the Deeds for the Property. The Applicant demonstrated agreement to redevelop the property by obtaining a Special Use Permit from the City Plan Board on June 28, 2018. Finally, the Applicant has agreed to rehabilitate the property, which is a statutory term defined by Section 376.79(19), Florida Statutes, by submitting a Remedial Action Plan to the Florida Department of Environmental Protection ("FDEP") on September 13, 2018 which was approved on October 29, 2018, and a draft Brownfield Site Rehabilitation Agreement ("BSRA") to the FDEP on October 29, 2018, with a statement indicating the Applicant's agreement to rehabilitate the property.

B. The Applicant must demonstrate that the rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity along with at least 5 new permanent jobs.

The Applicant estimates combined investment total approximately \$8 million, which will be spent in part on local labor, contractors, consultants, construction materials, furnishings, and

site improvements. Site development is estimated to support approximately 100 temporary construction and remediation jobs over the period of cleanup and development. Wawa, the tenant, will hire 30 to 40 permanent employees. Please see Appendix H. The positions will meet the full-time equivalent positions (5) required by statute benefitting the local economy and increasing the economic productivity of the area.

- C. The Applicant must demonstrate that redevelopment of the site is consistent with the local comprehensive plan and a permissible use under the local land development regulations.

The Applicant's tenant will operate a gasoline and alternative fuel service station at the Subject Property pursuant to a Special Use Permit to Construct a Gasoline and Alternative Fuel Station at the Subject Property, which was approved by the City Plan Board on June 28, 2018. The proposed redevelopment is therefore, by definition, consistent with the local comprehensive plan and a permissible use under the Land Development Code. Please see Appendix F for the staff report for PB 17-165 SUP (Special Use Permit).

- D. The Applicant must demonstrate that it provided the proper notice to neighbors and nearby residents and afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation.

The form and timing of the notice is included in Florida Statutes § 376.80(2)(c)(4), which requires publication by the Applicant in a newspaper of general circulation in the area, publication in ethnic newspaper or local community bulletins, and announcement at a scheduled meeting of the local governing body before the actual public hearing. Notice of the request to designate the Subject Property a Brownfield Area was posted at the site and will remain posted through the second public hearing on this designation request. Photographic evidence of the posting was provided to the City by the Applicant on October 29, 2018. Notice of the designation was published in the Gainesville Sun on October 1, 2018. A copy of the notice along with an affidavit of publication was provided to the City by the Applicant on October 29, 2018. Notice of the designation as published in the Gainesville community bulletin section of Craig's List on September 25, 2018. A copy of the notice was provided to the City by the Applicant on October 29, 2018. A community meeting specifically for the purpose of affording those receiving notice an opportunity for comments and suggestions about rehabilitation was convened at the Hampton Inn & Suites Gainesville Downtown, 101 SE 1st Avenue from 5:30 p.m. to 7 p.m. The date and location of the meeting was included in the notice posted in the property and published in the Gainesville Sun and the community bulletin section of Craig's List. An affidavit was submitted to the City by the Applicant's agent attesting to holding of the public meeting on the published date, at the published time, and at the published location. No members of the public attended the public meeting. Finally, an announcement regarding the designation was made at the City Commission meeting on November 1, 2018.

- E. The Applicant must demonstrate that it provided reasonable assurance it has sufficient financial resources to perform cleanup and redevelopment.

In the designation request, the Applicant submitted information that the total capital budget for the project is \$8.0 million and that the budget in this amount is fully funded by a combination of debt and equity, including a Mortgage, Security Agreement and Fixture Filing, dated August 15, 2018, with Stonegate Bank, and a Proof of Funds Letter issued by Valley National Bank. In addition, the Applicant represented that similar projects previously completed in Florida secured over \$100 million in financing and that ongoing projects in various stage of remediation and development have secured another \$150 million in financing. In addition to the debt and equity funds brought to the project by the Applicant, the Applicant's tenant, Wawa, is contributing approximately \$4 million in capital for build out of its convenience store and fueling equipment. Wawa generates over \$9.8 billion in revenue annually and has locations across Pennsylvania, New Jersey, Delaware, Maryland, Virginia, and Florida. Based on all the foregoing, the Applicant has provided reasonable assurance that it has sufficient financial resources available to implement and complete the rehabilitation agreement and redevelopment plan.

- F. The Applicant must demonstrate that the property in question falls within the definition of a brownfield site.

Florida Statutes § 376.80(2)(c)(5) defines "brownfield site" to mean ". . . real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination." The Applicant provided clear and convincing evidence that the site is impacted with actual contamination and that such contamination complicates redevelopment and reuse. Specifically, contamination at, and migrating away, from the site is extensively documented in multiple notices, assessment reports, and remediation planning documents on file with the FDEP beginning in 1987. FDEP's extensive file on the cleanup at the Subject Property can be accessed by clicking on the following link:

<http://prodenv.dep.state.fl.us/DepNexus/public/electronic-documents/8500083/facility!search>

The most recent such document in the FDEP file, dated September 29, 2018, is a combined Site Assessment Report ("SAR") and Remedial Action Plan ("RAP"), prepared by the Applicant's consultant. The SAR that documents contamination in groundwater has migrated south of the Property into the SE 1st Avenue right-of-way, remediation of which will not only require oversight and approvals from FDEP but also from the Florida Department of Transportation ("FDOT"), which will add further complication and cost for the Application. To address the findings in the SAR, the RAP states that the Applicant will remove over 3,595 tons of petroleum contaminated soil from the Property and apply 8,816 pounds of a chemical oxidation amendment to remaining soils. Groundwater monitoring will occur quarterly until the Applicant can demonstrate to FDEP that the groundwater plume is stable or shrinking. FDEP issued a formal review of the Applicant's RAP on October 18, 2018 and found that the "proposed remedial strategy appears to be technically sufficient to achieve the proposed cleanup goals." A copy of FDEP's memorandum reviewing Applicant's RAP can be found at Appendix E. The Property's contamination status exposes the Applicant to legal liability to FDEP, FDOT, and private third-parties under Chapters 376 and 403, Florida Statutes, and

the common law and will require the Applicant to spend approximately \$750,000.00 for contamination assessment and remediation activities, over \$100,000.00 to redesign the site, including to redesign how stormwater drains on the Property, and an unknown amount of money to properly manage contaminated soil and construction dewatering during site development. These legal, engineering, technical, and financial factors, none of which would apply at a contamination-free property, materially complicate redevelopment and reuse of the Property.

RECOMMENDATION:

Staff finds the applicant has met the standards outlined in Florida Statutes to designate the property a brownfield. Staff recommends approval of the request to designate the property the “BW University Green Reuse Area” pursuant to Florida Statutes §376.80(2)(c).

BACKGROUND:

There was a First Step meeting on October 15, 2012 concerning tax parcel 12007-001-000 (vacant gas station), which also included parcel 12007-000-000, which discussed the possibility of a Family Dollar store at the location. The vacant ABC alcoholic beverage store on tax parcel 12005-000-000 was built in 1972 and is now being demolished. The City Commission approved the vacation of a right of way on the site on June 21, 2018.

A Special Use Permit to construct a gasoline station with 12 fueling positions, an approximately 5,564 square foot convenience store, and an associated eating place with outdoor seating was approved by the City Plan Board on June 28, 2018.

POST-APPROVAL REQUIREMENTS:

If the Applicant’s request is approved, Florida Statutes § 376.80(1)(c)1 requires the City to transmit notice of the approval and a copy of the Resolution approving the designation to FDEP within 30 days after adoption.

LIST OF APPENDICES:

Appendix A	Map
Appendix B	Brownfields Designation Request
Appendix C	§ 376.80, Florida Statutes
Appendix D	§ 376.79, Florida Statutes
Appendix E	FDEP RAP Review Memorandum
Appendix F	Staff Report, PB 17-165 SUP
Appendix G	Public Notice Sign, Proof of Advertising, Affidavit of Public Meeting
Appendix H	Staffing Chart for Tenant (WaWa)