



# MEMORANDUM

Office of the City Attorney

Phone: 334-5011/Fax 334-2229  
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9 8 0 8 7 3

**TO:** Mayor and City Commission

**DATE:** May 24, 1999  
SECOND READING

**FROM:** Marion J. Radson, City Attorney

**SUBJECT:** Ordinance No. 0-99-27, Petition No. 224LUC-98PB  
An ordinance amending the City of Gainesville 1991-2001 Comprehensive Plan, Future Land Use Map; by changing the land use category of certain property consisting of approximately 44.6 acres (MOL) from "Agriculture" to "Industrial"; located in the vicinity of the 7600 block east of U.S. 441 and west of S.R. 121; providing a severability clause; providing a repealing clause; and providing an effective date.

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Recommendation: The City Commission adopt the proposed ordinance.

The proposed amendment to the Comprehensive Plan was transmitted to the State Land Planning Agency for written comment. Any comments, recommendations or objections of the State Department of Community Affairs must be considered at the second public hearing. The City Commission may then adopt or adopt with changes the proposed amendment to the Comprehensive Plan, or determine not to adopt a plan amendment.

The State of Florida Department of Community Affairs issued a letter dated April 22, 1999 stating that this amendment need not be formally reviewed for consistency with Chapter 163, F.S. A copy of their letter is attached to this memorandum. Therefore, the City may now proceed with the final adoption of this ordinance.

Plan amendments do not become effective until the state land planning agency 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 by:

Marion J. Radson  
City Attorney



STATE OF FLORIDA  
**DEPARTMENT OF COMMUNITY AFFAIRS**

*"Helping Floridians create safe, vibrant, sustainable communities"*

JEB BUSH  
 Governor

STEVEN M. SEIBERT  
 Secretary

April 22, 1999

The Honorable Paula DeLaney  
 Mayor, City of Gainesville  
 Post Office Box 490-19  
 Gainesville, Florida 32602



Dear Mayor DeLaney:

The Department has conducted a preliminary review of the County's proposed comprehensive plan amendment received on March 26, 1999, DCA Reference No. 99-1ER, and has determined to review the amendment as described below. The Department has not received any recommendation for review from the North Central Florida Regional Planning Council or any affected person regarding the proposed amendment.

The Department has determined that the proposed plan amendments, listed below, should be formally reviewed for consistency with Chapter 163, Florida Statutes, and Rule 9J-5, Florida Administrative Code, and an Objections, Recommendations and Comments Report will be issued for these amendment(s):

**215CPA-98PPB**, which amends policy 2.1.1 of the FLUE to lower the minimum density in the MDR and HDR to eight du/a, to exempt lots of certain sizes from minimum density requirements in those categories, and to allow single family use in the HDR category.

These amendments will be recognized as **DCA reference number 99-1ERA**. Please refer to this amendment number when addressing or forwarding correspondence regarding these amendment(s).

The remaining proposed amendments listed below need not be formally reviewed for consistency with Chapter 163, Florida Statutes, and Rule 9J-5, Florida Administrative Code, and the ORC report will be waived for these amendment(s):

**192CPA-98PB**, which amends objectives and policies of the Conservation, Recreation/Open Space, and Stormwater Elements concerning the removal of exotic/invasive vegetation, restoration or improvement of degraded water bodies, and access to corridors and greenways.

**248CPA-98P**, which amends the FLUE to address school siting requirements.

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 Internet address: <http://www.state.fl.us/comaff/>

The Honorable Paula DeLaney  
April 22, 1999  
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**224LUC-98PB**, which changes 44.6 acres from Agriculture to Industrial, and which is adjacent to several hundred acres currently designated as Industrial and to the rail line.

The local government may proceed to immediately adopt these amendments. These amendments will be recognized as **DCA reference number 99-1ERB**. Please refer to this amendment number when addressing or forwarding correspondence regarding these amendments.

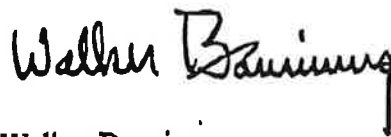
Please be advised that pursuant to Chapter 163.3189(2)(a), F.S., the Department recommends that the City include the following language in the adoption ordinance regarding the effective date of the adopted amendment:

"The effective date of this plan amendment shall be the date a final order is issued by the Department of Community Affairs finding the amendment to be in compliance in accordance with Chapter 163.3184, F.S.; or the date a final order is issued by the Administration Commission finding the amendment to be in compliance in accordance with Chapter 163.3184, F.S."

Further, the Department's notice of intent to find a plan amendment in compliance shall be deemed to be a final order if no timely petition challenging the amendment is filed. Any affected person may file a petition with the agency within 21 days after the publication of the notice pursuant to Chapter 163.3184(9), F.S.

This letter should be made available for public inspection. If you have any question, please contact Vicki Morrison, Planner IV, overseeing the review of the amendment, at (850) 487-4545.

Sincerely,



Walker Banning  
Community Program Administrator

WB/vms

cc: Mr. Ralph Hilliard, Planning Manager  
Mr. Charles F. Justice, Executive Director, North Central Florida Regional Planning Council

ORDINANCE NO. \_\_\_\_\_  
0-99-27

An ordinance amending the City of Gainesville 1991-2001 Comprehensive Plan, Future Land Use Map; by changing the land use category of certain property consisting of approximately 44.6 acres (MOL) from "Agriculture" to "Industrial"; located in the vicinity of the 7600 block east of U.S. 441 and west of S.R. 121; providing a severability clause; providing a repealing clause; and providing an effective date.

**WHEREAS**, publication of notice of a public hearing was given that the Future Land Use Map be amended by changing the land use category of certain property from "Agriculture" to "Industrial"; and

**WHEREAS**, notice was given and publication made as required by law and a Public Hearing was held by the City Plan Board on December 17, 1998; and

**WHEREAS**, notice was given and publication made of a Public Hearing which was held by the City Commission; and

**WHEREAS**, pursuant to law, an advertisement no less than two columns wide by 10 inches long was placed in a newspaper of general circulation notifying the public of this proposed ordinance and of the public hearing to be held in the City Commission Meeting Room, First Floor, City Hall, in the City of Gainesville at least seven (7) days after the day the first advertisement was published; and

**WHEREAS**, pursuant to law, after the public hearing at the

1 transmittal stage, the City of Gainesville transmitted copies of  
2 this proposed change to the State Land Planning Agency; and

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

8       **WHEREAS**, the two (2) Public Hearings were held pursuant to  
9 the published notices described above at which hearings the  
10 parties in interest and all others had an opportunity to be and  
11 were, in fact, heard; and

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

15       **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**  
16 **CITY OF GAINESVILLE, FLORIDA:**

17       **Section 1.** The Future Land Use Map of the City of Gainesville  
18 1991-2001 Comprehensive Plan is amended by changing the land use  
19 category of the following described property from "Agriculture" to  
20 "Industrial":

21  
22       See legal description attached hereto as Exhibit  
23 "A", and made a part hereof as if set forth in  
24 full.

25  
26       **Section 2.** The City Manager is authorized and directed to make  
27 the necessary changes in maps and other data in the City of

1 Gainesville 1991-2001 Comprehensive Plan, or element, or portion  
2 thereof in order to comply with this ordinance.

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

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

9       **Section 5.** This ordinance shall become effective immediately  
10 upon passage on second reading; however, the amendment to the City  
11 of Gainesville 1991-2001 Comprehensive Plan shall become effective  
12 thirty one (31) days after adoption of this Ordinance on second  
13 reading unless a petition is filed with the Division of  
14 Administrative Hearings pursuant to § 163.3184, F.S. In this  
15 event this Ordinance shall not become effective until the state  
16 land planning agency issues a final order determining the adopted  
17 amendment to be in compliance in accordance with S. 163.3184, or  
18 until the Administration Commission issues a final order  
19 determining the adopted amendment to be in compliance in

1 accordance with S. 163.3184, F.S.

2 **PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_,

3 1999.

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\_\_\_\_\_  
MAYOR

7 ATTEST:

APPROVED AS TO FORM AND LEGALITY:

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13 \_\_\_\_\_  
14 KURT LANNON,  
15 CLERK OF THE COMMISSION

\_\_\_\_\_  
MARION J. RADSON, CITY ATTORNEY

16 This ordinance passed on first reading this \_\_\_\_\_ day of  
17 \_\_\_\_\_, 1999.

18  
19 This ordinance passed on second reading this \_\_\_\_\_ day of  
20 \_\_\_\_\_, 1999.

21  
22  
23 MJR/afm

**Legal Description**  
**Gary Yelvington**

February 2, 1999

**Description: (by surveyor)**

A parcel of land 550 feet wide lying in the South ½ of Section 12, Township 9 South, Range 19 East, and Section 7, Township 9 South, Range 20 East, all in Alachua County, Florida; being more particularly described as follows:

Commence at the Southeast corner of said Section 12, and run North 00°08'23"East, along the East line of said Section, 1980.81 feet to a concrete monument marked "RLS 940" at the Northeast corner of the Southeast 1/4 of the Northeast 1/4 of the Southeast 1/4 of said Section 12 and the Point-of-Beginning; thence North 89°29'59"West 3223.58 feet to an iron rod marked "PLS 3524" at the Northwest corner of O.R.B. 1129, page 116 of the public records of Alachua County, Florida, said point being on the Easterly right-of-way line of a 50 foot wide City of Gainesville Right-of-way, (said point lying and being 150 feet perpendicular to the centerline of the Atlantic Coast Line Railroad tracks); thence North 45°26'51"West, along said Easterly right-of-way line and parallel to said centerline of tracks, 791.01 feet; thence South 89°29'59"East 3788.62 feet to the said West line of Section 7; thence South 89°59'33"East 30.35 feet; thence South 01°11'17"West, 550.13 feet to the North line of the Northwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of said Section 7; thence North 89°59'33"West, along said North line, 20.28 feet to the Point-of-Beginning.

Containing 44.59 Acres more or less.