



MEMORANDUM
Office of the City Attorney

Legistar No. 050769

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

DATE: March 27, 2006
FIRST READING

TO: Mayor and City Commission

FROM: City Attorney

SUBJECT: Ordinance No. 0-06-35; Petition 175TCH-05 PB
An ordinance of the City of Gainesville, Florida, amending Appendix A, Section 7, Exhibit A, of the Land Development Code, Southwest 13th Street Special Area Plan, relating to height limits in the Urban Mixed Use-1 (UMU-1) and Urban Mixed Use-2 (UMU-2) zoning districts; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

Recommendation: The City Commission: (1) approve Petition 175TCH-05 PB, and (2) adopt the proposed ordinance.

COMMUNITY DEVELOPMENT DEPARTMENT STAFF REPORT

On November 28, 2005, the City of Gainesville adopted two new zoning districts—Urban Mixed Use-1 (UMU-1) and Urban Mixed Use-2 (UMU-2). These new districts are now both found within the Southwest 13th Street Special Area Plan, and have inconsistent regulations. The UMU-1 and UMU-2 zoning districts allow building heights that are taller than those allowed in the Southwest 13th Street SAP. This petition, therefore, recommends that the SAP height limits be increased to be consistent with the UMU height limits.

This petition proposes to amend the Southwest 13th Street SAP to make it consistent with the provisions found in UMU-1 and UMU-2 zoning districts. The Plan Board heard the petition and voted to recommend approval to the City Commission.

Public notice was published in the Gainesville Sun on January 3, 2006. Letters were mailed to surrounding property owners on January 4, 2006. The Plan Board held a public hearing January 19, 2006. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board recommended that the City Commission approve Petition 175TCH-05 PB. Plan Board vote 5-0.

CITY ATTORNEY MEMORANDUM

This ordinance requires two public hearings. If adopted on first reading, the second and final reading will be held on Monday, April 10, 2006.

Fiscal Note: None

Prepared by: Dana Crosby
Dana L. Crosby, Assistant City Attorney II

Approved and
Submitted by: Marion J. Radson
Marion J. Radson, City Attorney

ORDINANCE NO. 0-06-35

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An ordinance of the City of Gainesville, Florida, amending Appendix A, Section 7, Exhibit A, of the Land Development Code, Southwest 13th Street Special Area Plan, relating to height limits in the Urban Mixed Use-1 (UMU-1) and Urban Mixed Use-2 (UMU-2) zoning districts; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, publication of notice of a public hearing that the text of the Land Development Code of the City of Gainesville, Florida, be amended; and

WHEREAS, notice was given and publication made as required by law and a public hearing was then held by the City Plan Board on January 19, 2006; and

WHEREAS, at least 10 days notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a public hearing to be held in the City Commission Auditorium, City Hall, City of Gainesville; and

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

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

Section 1. Section (q) of Appendix A, § 7, Exhibit A, Special Area Plan for the Southwest 13th Street Special Area Plan, City of Gainesville Land Development Code, is amended to read as follows:

- (q) *Dimensional requirements.* All principal and accessory structures shall be located and constructed in accordance with the following requirements:
 - Minimum lot area: 3,000 square feet

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- Minimum lot width (parallel to the street): 35 feet
- Minimum building height: two stories
- Maximum building height (as defined in Section 30-23): five stories and 65 feet in Districts 1 and 2; four stories and 52 feet in District 3. However, for District 1 parcels within UMU-1 or UMU-2 zoning districts, sections 30-65.1 and 30-65.2 shall apply.
- Maximum building width (parallel to the street): 100 feet
- Maximum building foot print (first floor building area): 30,000 square feet for single-use buildings; multiple-use (including residential) buildings are limited by height limit, stormwater management regulations, required buffers, and other code requirements.

Section 2. It is the intention of the City Commission that the provisions of Section 1 of this ordinance shall become and be made a part of the Code of Ordinances of the City of Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered or relettered in order to accomplish such intentions.

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

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

Section 5. This ordinance shall become effective immediately upon final adoption.

PASSED AND ADOPTED this ____ day of _____, 2006.

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PEGEEN HANRAHAN,
MAYOR

ATTEST:

Approved as to form and legality

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

This Ordinance passed on first reading this ____ day of _____, 2006.

This Ordinance passed on second reading this ____ day of _____, 2006.

Petition No. 175TCH-05 PB

CODE: Words underlined are additions; words ~~stricken~~ are deletions.

City of
Gainesville

Inter-Office Communication

Planning Division
X5022, FAX x2282, Station 11

Item No. 4

TO: City Plan Board

DATE: January 19, 2006

FROM: Planning Division Staff

SUBJECT: Petition 175TCH-05 PB. City Plan Board. Amend the Southwest 13th Street Special Area Plan to make build-to lines and create height limits consistent with the Urban Mixed Use-1 and Urban Mixed Use-2 Zoning that has been established on certain properties in this neighborhood.

Recommendation

Staff recommends approval of Petition 175TCH-05 PB.

Explanation

On November 14, 2005, the City of Gainesville adopted two new zoning districts—Urban Mixed Use – 1 and Urban Mixed Use – 2. These new districts are now both found within the SW 13th Street Special Area Plan, and have inconsistent regulations. The UMU-1 and UMU-2 zoning districts allow building heights that are taller than those allowed in the SW 13th Street SAP. This petition, therefore, recommends that the SAP height limits be increased to be consistent with the UMU height limits.

This petition proposes to amend the SW 13th Street SAP to make it consistent with the provisions found in the UMU-1 and UMU-2 zoning districts.

Respectfully submitted,



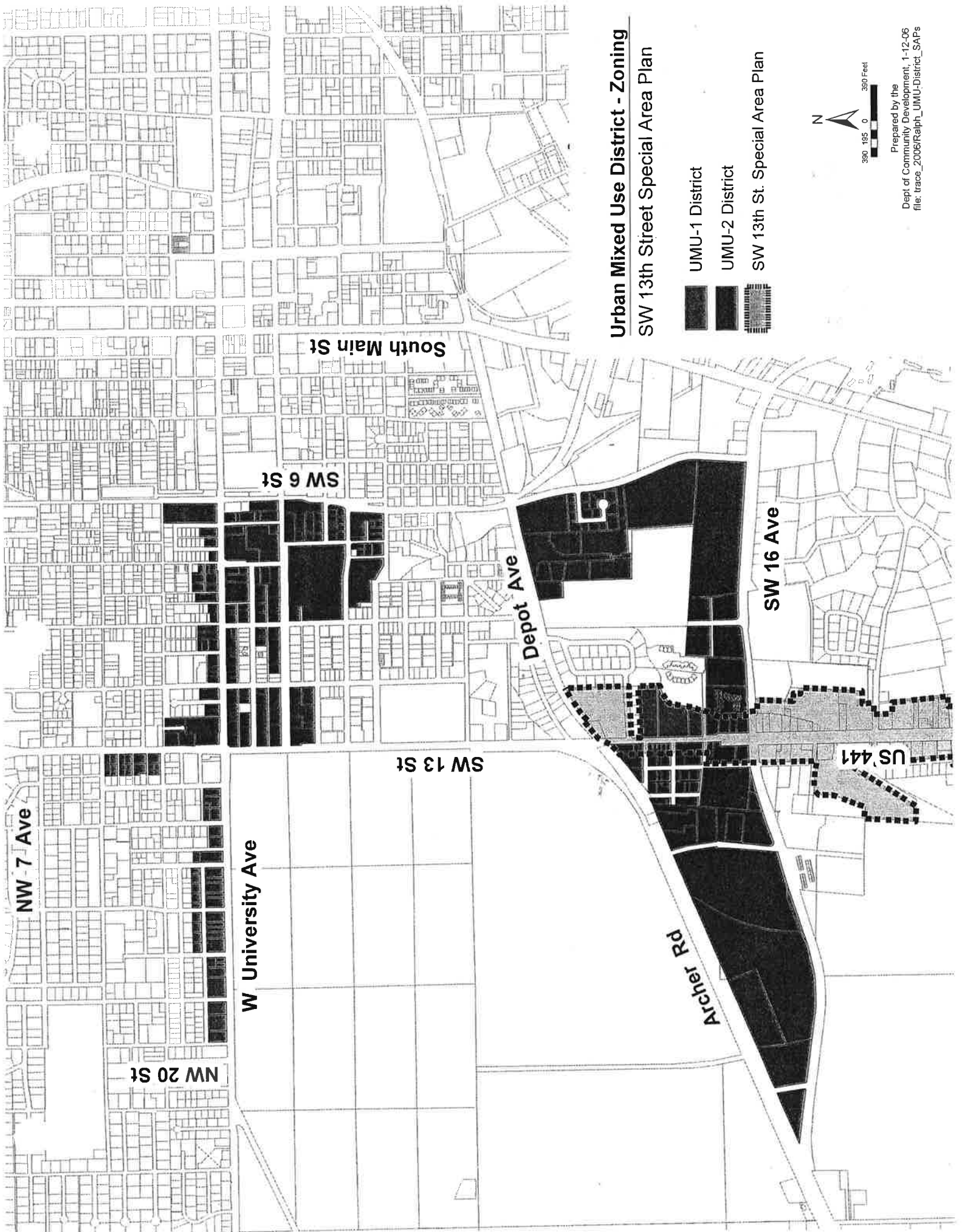
Ralph Hilliard
Planning Manager

DM:DN




Attachments

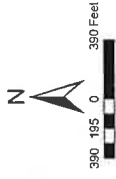
Map of the Area

Proposed Amendments to the SW 13th Street Special Area Plan



Urban Mixed Use District - Zoning
SW 13th Street Special Area Plan

-  UMU-1 District
-  UMU-2 District
-  SW 13th St. Special Area Plan



Appendix A. Section 7

Special Area Plan for SW 13th Street

(q) *Dimensional requirements.* All principal and accessory structures shall be located and constructed in accordance with the following requirements:

- Minimum lot area: 3,000 square feet
- Minimum lot width (parallel to the street): 35 feet
- Minimum building height: two stories
- Maximum building height (as defined in Section 30-23): five stories and 65 feet in Districts 1 and 2; four stories and 52 feet in District 3. However, for District 1 parcels within UMU-1 or UMU-2 zoning districts, Sec. 30-65.1 & 2 shall apply.
- Maximum building width (parallel to the street): 100 feet
- Maximum building foot print (first floor building area): 30,000 square feet for single-use buildings; multiple-use (including residential) buildings are limited by height limit, stormwater management regulations, required buffers, and other code requirements.

4. **Petition 175TCH-05 PB** City Plan Board. Amend the Southwest 13th Street Special Area Plan to make build-to lines and create height limits consistent with the Urban Mixed Use-1 and Urban Mixed Use-2 Zoning that has been established on certain properties in this neighborhood.

Mr. Dom Nozzi was recognized. Mr. Nozzi indicated that he would address Petitions 170, 174, and 175TCH-05 PB simultaneously. He explained that the City recently established two new zoning districts, UMU-1 and UMU-2. He pointed out those districts on a map, and noted the new zoning districts affected the College Park, University Heights, and SW 13th Street Special Area Plans. He indicated that the overlays, the special area plans, overrode the underlying zoning regulations when there was conflict between the two. He explained that, because of some of those conflicts, City objectives for certain things were not being achieved. Mr. Nozzi indicated that the purpose of the petitions was to make the overlays and the new zoning districts consistent. He noted that the UMU District's height limits were taller than the special area plans, therefore, the special area plans needed to be changed to reflect those taller heights. He indicated that use provisions needed to be changed, including more clearly stating that drive-throughs and stand-alone surface parking were not allowed in College Park, and surface parking as a primary use was not allowed in the University Heights Districts. Mr. Nozzi noted that the proposal was to make drive-throughs a prohibited use in University Heights, and requiring a Special Use Permit for rehabilitation centers, which would make the Special Area Plan compatible with the UMU Districts. He indicated that auto dealers, auto service, limited auto services, carwashes, gas service stations, and gasoline pumps, when accessory to a Food Store, would also be prohibited in the College Park District. He offered to answer any questions from the board.

At the request of the board, Mr. Mimms read the text of the definition of rehabilitation center and indicated that the language was in the process of being revised.

Mr. Reiskind asked if it was possible to have a supermarket within walking distance in the University Heights District. He cited a concern that the minimum 2-story building heights might be a constraint on such a use.

Mr. Nozzi indicated that there were some grocery chains that did have multi-story markets in higher density cities where there was a lot of residential within walking distance, however, he did not believe it was a common practice. He agreed that a 2-story minimum might discourage certain types of retail establishments in the neighborhoods, however, staff had not done a detailed analysis of the issue. He noted that it was quite common for cities to establish 2-story minimum land development regulations for commercial buildings. He explained that it was to create a sense of enclosed outdoor room space. Mr. Nozzi stated that, in his opinion, he did not believe there was enough density in College Park and University Heights to support a viable grocery retail.

Mr. Mimms pointed out that there were criteria to allow exceptions in the College Park Plan, and a waiver from compliance provision in the University Heights Plan.

Mr. Cohen noted that some of the prohibited uses already existed in the College Park and University Heights Districts. He asked what would happen if one of those uses wished to remodel or rebuild.

Mr. Nozzi indicated that non-conforming uses were restricted. He explained that a non-conforming use could not expand or improve their operation.

Mr. Mimms explained that, should a non-conforming property suffer some damage and 80 percent destroyed, it could not be rebuilt. He noted that minor changes could be made, if necessary.

Mr. Cohen asked if the owners of the businesses had been notified of the proposed changes.

Mr. Nozzi indicated that he was unsure if there was a threshold of property owners to be notified.

Mr. Mimms indicated the petition involved text changes, not rezoning changes, so it received the basic advertising.

Chair Cole opened the floor to public comment.

Ms. Linda Portal, Planning Consultant for the Diocese of St. Augustine, was recognized. Ms. Portal discussed the petition and increased density in Mixed Use areas. She explained that the church did lease out surface parking during the day and she wished the clarification that the changes in the College Park Overlay were not intended to curtail that use. She indicated that it was not a stand-alone use, but she did wish to speak to the matter. She noted that the site had split zoning.

Mr. John Fleming, Tri Mark Properties, was recognized. Mr. Fleming asked if the 10-foot requirement for the sidewalk in the UMU District allowed for street trees to be in the 10 feet. He cited a concern that, on some streets in the UMU District, it would be difficult to provide a 10-foot sidewalk and street trees.

Mr. Nozzi explained that, as long as there was 5 feet clear width, street trees could be planted in tree wells.

Chair Cole closed the floor to public comment.

Mr. Mimms indicated that, after review of the files, it appears that all of the property owners involved in the districts were notified of the actions to be taken.

<u>Motion By:</u> Mr. Reiskind	<u>Seconded By:</u> Mr. Gold
<u>Moved to:</u> Approve Petition 175TCH-05 PB	<u>Upon Vote:</u> Motion Carried 5 – 0 Aye: Cohen, Polshek, Reiskind, Gold, Cole