ORDINANCE NO. 070904
0-08-07

An ordinance of the City of Gainesville, Florida, amending the Future Land Use Element of the City of Gainesville 2000-2010 Comprehensive Plan, amending the Urban Mixed-Use-1 category within Policy 4.1.1 by deleting the current allowance for an additional 2 stories of building height by Special Use Permit and deleting an unnecessary reference to the Land Development Code; providing directions to the city manager; providing a severability clause; providing a repealing clause; and providing an effective date.

WHEREAS, the City Plan Board authorized the publication of notice of a Public Hearing that the text of the City of Gainesville 2000-2010 Comprehensive Plan 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 September 20, 2007; and

WHEREAS, pursuant to law, an advertisement was placed in a newspaper of general circulation notifying the public of this proposed ordinance and of the Public Hearing to be held at the transmittal stage, in the City Commission Auditorium, City Hall, City of Gainesville, at least 7 days after the day the first advertisement was published; and

WHEREAS, pursuant to law, after the public hearing at the transmittal stage the City of Gainesville transmitted copies of this proposed change to the State Land Planning Agency; and

WHEREAS, a second advertisement was placed in the aforesaid newspaper notifying the public of the second Public Hearing to be held at least 5 days after the day the second advertisement was published; and

WHEREAS, the two Public Hearings were held pursuant to the published notices described at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard; and

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0-08-07

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WHEREAS, the two Public Hearings were held pursuant to the published notices described at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard; and

WHEREAS, prior to adoption of this ordinance, the City Commission has considered the comments, recommendation and objections, if any, of the State Land Planning Agency.

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

Section 1. A portion of Policy 4.1.1 of the Future Land Use Element of the City of Gainesville 2000-2010 Comprehensive Plan relating to Urban Mixed-Use-1, is amended to read as set forth below, the remainder of Policy 4.1.1 shall remain unchanged and in effect:

Future Land Use Element

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

Urban Mixed-Use 1 (UMU-1: up to 75 units per acre). This category allows a mixture of residential, retail and office/research uses. The Urban Mixed Use districts are distinguished from other mixed-use districts in that they are specifically established to support biotechnology research in close proximity to the University of Florida. An essential component of the district is orientation of structures to the street and pedestrian character of the area. Retail and office uses located within this district shall be scaled to fit into the character of the area. Residential density shall be limited to 75 units per acre with provisions to add up to 25 additional units per acre by special use permit. All new development must be a minimum of 2 stories in height. Building height shall be limited to 6 stories ~~and up to 8 stories by special use permit~~. Land development regulations shall set the appropriate densities; the distribution of uses; design criteria; landscaping, pedestrian, and vehicular access. ~~Land development regulations shall specify the criteria for the siting of public and private schools, places of religious assembly and community facilities within this category.~~

Section 2. The City Manager is authorized and directed to make the necessary changes in maps and other data in the City of Gainesville 2000-2010 Comprehensive Plan, or element, or portion thereof in order to fully implement this ordinance.

Section 3. It is the intent of the City Commission that this amended element will become part of the City of Gainesville 2000-2010 Comprehensive Plan.

Section 4. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application hereof to any person or circumstance is held invalid or

unconstitutional, such finding shall not affect the other provisions or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

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

Section 6. This ordinance shall become effective immediately upon final adoption; however, 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.

PASSED AND ADOPTED this 16th day of October, 2008.

PEGEEN HANRAHAN
MAYOR

ATTEST:

KURT M. LANNON
CLERK OF THE COMMISSION

Approved as to form and legality

MARION J. RADSON
CITY ATTORNEY
OCT 16 2008

This Ordinance passed on first reading this 12th day of May, 2008.

This Ordinance passed on second reading this 16th day of October, 2008.

Exhibit "A"

STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

August 26, 2008

The Honorable Pegeen Hanrahan
Mayor, City of Gainesville
P.O. Box 490, Station 19
Gainesville, FL 32601-0490

RE: City of Gainesville Proposed Comprehensive Plan Amendment 08-1

Dear Mayor Hanrahan:

The Department has completed its review of the proposed Comprehensive Plan Amendment for the City of Gainesville (DCA 08-1), which was received on June 27, 2008. Based on Chapter 163, Florida Statutes, we have prepared the attached report, which outlines our findings concerning the amendment. It is particularly important that the City address the 'objections' set forth in our review report so that these issues can be successfully resolved prior to adoption. We have also included a copy of local, regional and state agency comments for your consideration. Within the next 60 days, the City should act by choosing to adopt, adopt with changes or not adopt the proposed amendment. For your assistance, our report outlines procedures for final adoption and transmittal.

The amendment package consists of two Future Land Use Map amendments each with specific policies guiding the development of the amendment site and amendments to Future Land Use Element Policy 4.1.1 adding a new Business Industrial future land use category and deleting the current allowance for an additional 2 stories of building height by Special Use Permit to the Urban Mixed-Use-1 future land use category. The Department commends the City on its commitment to the protection of natural resources as evidenced in the proposed policies guiding development of the Hatchet Creek and LandMar amendment sites. However, at the same time the Department has concerns that the policy related to the LandMar amendment needs additional guidelines to ensure the compatibility with adjacent uses and to address urban sprawl and long term transportation impacts. The Department has also identified issues with the proposed Hatchet Creek amendment based on a self amending proposed policy. With regards to the proposed Business Industrial future land use category the Department has identified the need for the City to include a measurable intensity standard for the category.

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-2100
850-488-8466 (p) • 850-921-0781 (f) • Website www.dca.state.fl.us
• COMMUNITY PLANNING 850-488-2356 (p) 850-488-3309 (f) •
• HOUSING AND COMMUNITY DEVELOPMENT 850-488-7956 (p) 850-922-5623 (f) •

I believe the concerns outlined in our report can be resolved with additional attention to the amendment. If you, or your staff, have any questions or if we may be of further assistance as you formulate your response to this Report, please contact Ana Richmond, Principal Planner, via email at anastasia.richmond@dca.state.fl.us or by phone at (850) 922-1794.

Sincerely,

Mike McDaniel
Chief, Office of Comprehensive Planning

MM/ar

Enclosures: Objections, Recommendations and Comments Report
Review Agency Comments

cc: Mr. Scott Koons, AICP, Executive Director, North Central Florida RPC
Mr. Dean Mimms, AICP, Chief of Comprehensive Planning City of Gainesville
Mr. Allan Penska, Gainesville Regional Airport
Ms. Linda Shelly, Esq., Flower, White, Banker and Boggs

TRANSMITTAL PROCEDURES

The process for adoption of local comprehensive plan amendments is outlined in s. 163.3184, Florida Statutes, and Rule 9J-11.011, Florida Administrative Code.

Within ten working days of the date of adoption, the City must submit the following to the Department:

Three copies of the adopted comprehensive plan amendment;
A copy of the adoption ordinance;
A listing of additional changes not previously reviewed;
A listing of findings by the local governing body, if any, which were not included in the ordinance; and
A statement indicating the relationship of the additional changes to the Department's Objections, Recommendations and Comments Report.

The above amendment and documentation are required for the Department to conduct a compliance review, make a compliance determination and issue the appropriate notice of intent.

In order to expedite the regional planning council's review of the amendment, and pursuant to Rule 9J-11.011(5), F.A.C., please provide a copy of the adopted amendment directly to Mr. Scott Koons, AICP, Executive Director of the North Central Florida Regional Planning Council.

Please be advised that the Florida legislature amended Section 163.3184(8)(b), F.S., requiring the Department to provide a courtesy information statement regarding the Department's Notice of Intent to citizens who furnish their names and addresses at the local government's plan amendment transmittal (proposed) or adoption hearings. In order to provide this courtesy information statement, local governments are required by the law to furnish to the Department the names and addresses of the citizens requesting this information. This list is to be submitted at the time of transmittal of the adopted plan amendment.

DEPARTMENT OF COMMUNITY AFFAIRS

OBJECTIONS, RECOMMENDATIONS AND COMMENTS

FOR THE CITY OF GAINSEVILLE

COMPREHENSIVE PLAN AMENDMENT 08-1

August 26, 2008
Division of Community Planning
Office of Local Planning

This report is prepared pursuant to Rule 9J-11.010, F.A.C.

INTRODUCTION

The following objections, recommendations and comments are based upon the Department's review of the City of Gainesville's proposed amendment to their comprehensive plan (DCA number 08-1) pursuant to Chapter 163.3184, Florida Statutes (F.S.).

The objections relate to specific requirements of relevant portions of Rule 9J-5, Florida Administrative Code (F.A.C.), and Chapter 163, Part II, F.S. Each objection includes a recommendation of one approach that might be taken to address the cited objection. Other approaches may be more suitable in specific situations. Some of these objections may have initially been raised by one of the other external review agencies. If there is a difference between the Department's objection and the external agency advisory objection or comment, the Department's objection would take precedence.

Each of these objections must be addressed by the local government and corrected when the amendment is resubmitted for our compliance review. Objections, which are not addressed, may result in a determination that the amendment is not in compliance. The Department may have raised an objection regarding missing data and analysis items, which the local government considers not applicable to its amendment. If that is the case, a statement justifying its non-applicability pursuant to Rule 9J-5.002(2), F.A.C., must be submitted. The Department will make a determination on the non-applicability of the requirement, and if the justification is sufficient, the objection will be considered addressed.

The comments, which follow the objections and recommendations section, are advisory in nature. Comments will not form bases of a determination of non-compliance. They are included to call attention to items raised by our reviewers. The comments can be substantive, concerning planning principles, methodology or logic, as well as editorial in nature dealing with grammar, organization, mapping, and reader comprehension.

Appended to the back of the Department's report are the comment letters from the other state review agencies and other agencies, organizations and individuals. These comments are advisory to the Department and may not form bases of Departmental objections unless they appear under the "Objections" heading in this report.

OBJECTIONS, RECOMMENDATIONS AND COMMENTS REPORT

FOR THE CITY OF GAINESVILLE

PROPOSED COMPREHENSIVE PLAN AMENDMENT 08-1

I. CONSISTENCY WITH CHAPTER 163, F.S. and RULE 9J-5, F.A.C.

A. Future Land Use Map

The City has proposed Ordinance 070447 (LandMar) proposing to convert 1,754 acres from Alachua County Rural/Agriculture and City Agriculture to Single Family, Planned Use District and Conservation.

1. Objection: The City has not adopted its Public School Facilities Element and Interlocal Agreement by the scheduled date of July 1, 2008 as required by Section 163.3177(12)(i), F.S. Therefore, pursuant to Section 163.3177(12) (j),F.S., the City is prohibited from adopting amendments to the comprehensive plan which increase residential density. Therefore, the City cannot adopt proposed LandMar FLUM amendment, which has the potential to increase residential density, until the City adopts and transmits its Public School Facilities Element along with associated comprehensive plan amendments implementing school concurrency along with an executed Public School Interlocal Agreement.

[Section 163.3177(12)(j), F. S.]

Recommendation: The City must first adopt and transmit the Public Educational Facilities Element and executed Interlocal Agreement to the Department. Then based on the level of service standards and concurrency service areas the City should provide adequate data and analysis supporting the LandMar amendment. Should the capacity not be available to serve the amendment site the City should either revise the amendment to reduce school impacts or include mitigation through the appropriate district facilities work plan for the amendment consistent with the mitigation options included in the Public Educational Facilities Element.

2. Objection: As proposed, the majority of the site, approximately 1,000 acres, would be devoted to low density single family housing, creating a pattered that is inefficient, promotes dependence on the automobile, and discourages a diversity of housing types.. The amendment therefore exhibits the following indicators of urban sprawl:

- Promotes, allows or designates for development substantial areas of the jurisdiction to develop as low-intensity, low-density, or single-use development.
- Promotes, allows or designates urban development in radial, strip, isolated or ribbon patterns generally emanating from existing urban developments.
- As a result of premature or poorly planned conversion of rural land to other uses, fails adequately to protect and conserve natural resources, such as wetlands, floodplains, native vegetation, environmentally sensitive areas. natural groundwater aquifer recharge areas, and other significant natural systems.
- Fails to maximize use of existing public facilities and services.

- Fails to maximize use of future public facilities and services.
- Allows for land use patterns or timing which disproportionately increase the cost in time, money and energy, of providing and maintaining facilities and services, including roads, potable water, sanitary sewer, stormwater management, law enforcement, education, health care, fire and emergency response, and general government.
- Fails to provide a clear separation between rural and urban uses.
- Fails to encourage an attractive and functional mix of uses.
- Results in poor accessibility among linked or related land uses.
- Results in the loss of significant amounts of functional open space

Authority: Sections 163.3177(2), (5), (6)(a), and (8), F.S., and Rules 9J-5.005(2), (5), 9J-5.006(1)(g), (2)(c), (3)(b)1. & 8., (3)(c)3., and (5), 9J-5.011(2)(b)3., F.A.C.

Recommendation: The Department recommends the City reduce the amendment size and revise the single family density to ensure the amendment will promote a sustainable development pattern that creates a choice in housing opportunities. The amendment should be sized so that housing, jobs, daily needs and other activities are at a scale that will promote interconnectivity and are within easy walking distance of each other. Revise the amendments to include provisions that further address urban form and housing and include an analysis that demonstrates the amendments discourage the proliferation of urban sprawl consistent with the requirements of Rule 9J-5, F.A.C.

3. Objection: Rule 9J-5.006(3)(c)2., F.A.C., requires provisions for compatibility of adjacent land uses. The proposed Single Family land use is incompatible with the Industrial land use located at the southwest corner of the LandMar amendment site, and the amendment lacks provisions which will ensure the uses will be compatible.

[Sections 163.3177(6)(a) and (8), F.S.; and Rules 9J-5.005(2), 9J-5.006(3)(c)2., F.A.C.]

Recommendation: The City should revise Policy 4.3.4.D to include a substantial buffer from the adjacent Industrial land use on the southwest boundary of the site. The Department recommends a minimum of 300 feet. The buffer should ensure the proposed residential development will not impact the operations or expansion of the existing industrial uses adjacent to the site.

4. Objection: The LandMar amendment represents a significant increase in development potential and impacts to SR 121. Although, the amendment proposes to limit development within the first five years to a level that will not degrade the level of service on SR 121 the City has not identified potential improvements to maintain the level of service on SR 121 within the planning horizon or build out of the amendment site.

[Sections 163.3177(2), (3)(a), (6)(a)&(j), (8), F.S. and Rules 9J-5.005(2); 9J-5.006(3)(b)1, and (3)(c)3.; 9J-5.016(1)(a), (2)(b and c), (3)(b)1, 3, & 5, and (4)(a)1 & 2; 9J-5.019(3)(f, g and h), (4)(b)2 & 3, (5), F.A.C.]

Recommendation: The Department recommends the City include amendments to Capital Improvements Element and Traffic Circulation Map to address long range planning efforts to maintain the level of service standard for SR 121.

B. Future Land Use Element

1. Objection: The City has proposed to amend Policy 4.1.1 to create a new Business Industrial future land use category. The City has not included an intensity standard for the proposed future land use category.

[Sections 163.3177(6)(a), F.S. and Rules 9J-5.005(6), 9J-5.006(3)(c)7., F.A.C.]

Recommendation: The City should revise the policy to establish a standard for intensity of land use for the proposed Business Industrial future land use category. Possible standards for non-residential standards include the use of floor area ratios (FARs) or impervious surface ratios (ISRs), based on square feet per acre, in combination with building height limitations and types of uses allowed.

2. Objection: The City has proposed policy 4.3.5 to guide development on the Hatchet Creek amendment site (Ordinance 070210). As proposed, Policy 4.3.5.d is self amending. The proposed policy would allow a different version of the Airport Noise Zone Map at the PD zoning stage from that adopted into the Comprehensive Plan through proposed Policy 4.3.5. Land development regulations and development orders are to be consistent with the adopted comprehensive plan. Allowing the PD to control land use and allowing a different version of the Airport Noise Zone map at the PD zoning ordinance stage from that included with the Comprehensive Plan is self-amending and creates potential inconsistency between the PD zoning and the Comprehensive Plan.

[Sections 163.3177(1), (6)(a), F.S. and Rule 9J-5.005(2)(g), F.A.C.]

Recommendation: The City should revise the policy to delete the reference to allowing the PD to control land use and allowing a different map at the PD zoning stage. The Airport Noise Zone map referenced in the Policy needs to be adopted into the plan. Alternatively the City may adopt it by reference however, the City must include the date, author and source of the map should it be adopted by reference. Any updated Airport Noise Zone map should be incorporated into the plan through the plan amendment process.

II. CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN

A. Future Land Use Map

1. Objection related to the need to adopt school concurrency provisions prior to the adoption of the LandMar amendment: The proposed plan amendments are not consistent with and do not further the following goal and policy of the State Comprehensive Plan [Section 187.201, F.S.]:

(25) Plan Implementation, Goal (a) and Policy (b)7.

Recommendation: Revise the amendments, as necessary, to be consistent with the above referenced goals and policies of the State Comprehensive Plan. Specific recommendations can be found following the objection cited previously in this report.

2. Objection related to the proposed LandMar amendment related to the proliferation of urban sprawl: The proposed plan amendment is not consistent with and does not further the following goals and policies of the State Comprehensive Plan [Section 187.201, F.S.]:

(15) Land use, Goal (a) and Policies (b)2; and
(25) Plan Implementation, Goal (a) and Policy (b) 7.

Recommendation: Revise the amendments, as necessary, to be consistent with the above referenced goal and policy of the State Comprehensive Plan. Specific recommendations can be found following the objection cited previously in this report

3. Objection related to the proposed LandMar amendment related to compatiblity: The proposed plan amendment is not consistent with and does not further the following goals and policies of the State Comprehensive Plan [Section 187.201, F.S.]:

(15) Land use, Goal (a) and Policies (b)2; and
(25) Plan Implementation, Goal (a) and Policy (b) 7.

Recommendation: Revise the amendments, as necessary, to be consistent with the above referenced goal and policy of the State Comprehensive Plan. Specific recommendations can be found following the objection cited previously in this report

4. Objection related to the proposed LandMar amendment related to long range transportation impacts: The proposed plan amendment is not consistent with and does not further the following goals and policies of the State Comprehensive Plan [Section 187.201, F.S.]:

(15) Land use, Goal (a) and Policies (b)1;
(17) Public Facilities, Goal (a) and Policies (b)1 and 7;
(19) Transportation, Goal (a) and Policies (b)3, 7, 9, 12, and 13; and
(25) Plan Implementation, Goal (a) and Policy (b) 7.

Recommendation: Revise the amendments, as necessary, to be consistent with the above referenced goal and policy of the State Comprehensive Plan. Specific recommendations can be found following the objection cited previously in this report

B. Future Land Use Element

1. Objection related to the proposed Business Institutional future land use category (Ordinance 071154): The proposed plan amendment is not consistent with and does not further the following goal and policy of the State Comprehensive Plan [Section 187.201, F.S.]:

(25) Plan Implementation, Goal (a) and Policy (b)7.

Recommendation: Revise the amendments, as necessary, to be consistent with the above referenced goals and policies of the State Comprehensive Plan. Specific recommendations can be found following the objection cited previously in this report

2. Objection related to proposed Hatchet Creek Policy 4.3.5.d: The proposed plan amendment is not consistent with and does not further the following goals and policies of the State Comprehensive Plan [Section 187.201, F.S.]:

(15) Land use, Goal (a) and Policies (b)2; and
(25) Plan Implementation, Goal (a) and Policy (b) 7.

Recommendation: Revise the amendments, as necessary, to be consistent with the above referenced goal and policy of the State Comprehensive Plan. Specific recommendations can be found following the objection cited previously in this report.