



**MEMORANDUM**  
**Office of the City Attorney**

Legistar No. 090184

Box 46

Phone: 334-5011/Fax 334-2229

**TO:** Mayor and City Commission

**DATE:** December 17, 2009

**FROM:** City Attorney

CITY ATTORNEY  
SECOND AND  
ADOPTION READING

**SUBJECT:** Ordinance No. 0-09-34, Petition PZ-09-67CPA

An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, relating to concurrency and the transportation concurrency exception area (TCEA); amending the Concurrency Management Element by revising the standards and requirements for existing TCEA zones, by creating new TCEA zones with related standards and requirements, by deleting the prohibition on TCEA zones west of I-75, by clarifying the status of annexed property, by creating trip credits for certain redevelopment projects, by creating requirements for certain developments on vacant acreage, by providing for implementation of the Bus Rapid Transit Study and express bus service, by clarifying the requirements for drive-through facilities, by requiring large developments to address regional impacts and by deleting legal descriptions of the existing TCEA zones; amending the Future Land Use Element by specifying TCEA zone requirements for annexed property and by requiring large developments to address regional impacts; amending the Transportation Mobility Element by deleting certain requirements for transportation mitigation outside of the TCEA and by providing for implementation of the Bus Rapid Transit Study and express bus service; amending the Capital Improvements Element by specifying the Concurrency Management level of service standards for the new TCEA zones and by adding new transit and transportation projects to the 5-year schedule of capital improvements; providing directions to the city manager; stating intent to adopt the amended elements as part of the City of Gainesville 2000-2010 Comprehensive Plan; providing a severability clause; providing a repealing clause; and providing an effective date.

---

**Recommendation:** The City Commission (1) receive the Objections, Recommendations and Comments Report from the State Department of Community Affairs; (2) review the amendments to the ordinance, as proposed response to the DCA objection; and (3) adopt the ordinance, as amended.

PLANNING AND DEVELOPMENT SERVICES DEPARTMENT STAFF REPORT

On July 28, 2009, the City Commission approved this ordinance, by a vote of 6-0, for transmittal to the Florida Department of Community Affairs (DCA) for review in accordance with state law.

On October 29, 2009, DCA issued its Objections, Recommendations and Comments (ORC) Report to the City (attached as **Exhibit "A"**). In the ORC Report, DCA objected that the comprehensive plan amendment was not in compliance with Sections 163.3177 and 163.3180, Florida Statutes, and with Rule 9J-5.005(2), Florida Administrative Code. The ORC Report states that *"As proposed, , Concurrency Management Element Policies 1.1.24 and 1.1.25 and Future Land Use Element Policies 4.4.3 and 4.4.4 would allow for the City to expand the boundary of their Transportation Concurrency Exception Area (TCEA) for annexed areas, based on data and analysis intending to support the City's continued designation as a dense urban land area. However, in accordance with Section 136.3164(34), F.S., the Office of Economic and Demographic Research within the Legislature shall annually calculate the population and density criteria needed to determine which jurisdictions qualify as dense urban land areas by using the most recent land area data from the decennial census conducted by the Bureau of the Census of the United States Department of Commerce and the latest available population estimates determined pursuant to Section 186.901, F.S. If any local government has had an annexation, contraction, or new incorporation, the Office of Economic and Demographic Research shall determine the population density using the new jurisdictional boundaries as recorded in accordance with Section 171.091, F.S. Therefore, the proposed policies are inconsistent with the provisions of Section 163.3164(34), F.S. regarding the process to annual update the list of dense urban land areas, and thus do not allow the regulation and designation of lands based upon appropriate land use and population information consistent with 163.3177(6)a); and do not establish as TCEA exemption consistent with Section 163.3180(5), F.S."*

The DCA's written recommendation states: *"The City should revise Concurrency Management Element Policies 1.1.24 and 1.1.25 and Future Land Use Element Policies 4.4.3 and 4.4.4. to provide for annexations to be added to the appropriate TCEA zone only after the Office of Economic and Demographic Research within the Legislature annually updates the jurisdictions which qualify as dense urban land areas. Alternatively, the City may wish to revise the policies to require data and analysis demonstrating any expansions to the TCEA meets the redevelopment criteria Chapter 163.3180(5)(b) 2. F.S. and Rule 9J-5.0055(6)(a)2. F.A.C., under which the City's original TCEA was established."*

Planning staff, together with legal staff, reviewed the DCA's written recommendation and discussed the matter further with DCA staff. As a result City staff recommends revising the policies as set forth in the City staff response to the ORC report attached as **Exhibit "B"**. These recommended revisions have been incorporated into Attachments 1 and 2 to the ordinance.

Pursuant to Section 163.3184(7)(a), Florida Statutes, the City has 60 days from receipt of the ORC report (in this case August 26, 2008) to "adopt the amendment, adopt the amendment with changes, or determine that it will not adopt the amendment."

#### Background

On June 1, 2009, SB 360 (now known as Chapter Law No. 2009-96) was signed into law. Among other things, SB 360 requires each City or County that is certified as a Dense Urban Land Area (DULA) to be automatically designated as a Transportation Concurrency Exception Area (TCEA). SB 360 defines a DULA as: (a) a municipality that has an average of at least 1,000

people per square mile of land area and a minimum total population of at least 5,000; (b) a county, including the municipalities located therein, which has an average of at least 1,000 people per square mile of land area; or (c) a county, including the municipalities located therein, which has a population of at least 1 million. The City meets the definition under (a) above, with approximately 2,064 persons per square mile of land area as of April 1, 2008 (the last official date for population estimates). Taking into account the recent Butler Plaza and SW 20<sup>th</sup> Avenue annexations in 2008 and 2009, the City still meets the DULA definition (June 1, 2009 population estimate of 131,639/62.58 square miles of city area) with approximately 2,103 persons per square mile. The City was designated as a DULA on July 8, 2009. With the adoption of SB 360 and Gainesville's DULA designation, the entire area within city limits is a TCEA.

This ordinance amends the text of the Concurrency Management Element, Future Land Use Element, Transportation Mobility Element, and Capital Improvements Element to make the City's Comprehensive Plan consistent with and implement the provisions of 2009 Senate Bill 360 (SB 360), especially as concerns transportation concurrency. A related ordinance, Legistar No. 090185, contains the map changes depicting the TCEA and sub-zones described in the policies in this ordinance.

#### Data and Analysis Report

The City first established a TCEA (Zones A and B) in 1999 with the adoption of the Concurrency Management Element. In 2005, Zone C was added to the TCEA by a Comprehensive Plan amendment. Those zones covered a sizable portion of the Gainesville city limits. However, as annexations occurred after 2005, the City did not extend the TCEA limits.

To clarify the TCEA discussion in this report, the following terminology will be used. "Existing TCEA" refers to TCEA Zones A, B, and C as adopted in the City's Comprehensive Plan prior to July 8, 2009. "State-mandated TCEA" refers to the areas outside of the Existing TCEA that became a TCEA upon official DULA designation by the State. "TCEA" refers to the TCEA associated with the adoption of the proposed Comprehensive Plan amendments in this ordinance and PZ-09-68 LUC.

Development in the Existing TCEA is regulated by objectives and policies in the Concurrency Management Element. In order to address the state-mandated TCEA and implement new development regulations for the overall TCEA, the City is proposing several Comprehensive Plan amendments that create new TCEA zones and requirements to support and fund mobility in the area. This is consistent with a provision in SB 360 concerning municipalities designated as DULAs. That provision states, "...shall, within two years after the designated area becomes exempt, adopt into its local comprehensive plan land use and transportation strategies to support and fund mobility within the exception area, including alternative modes of transportation."

This ordinance contains the amended and new goals, objectives, and policies associated with this Comprehensive Plan amendment. The following key strategies are incorporated into the new and amended Comprehensive Plan policies to support and fund mobility in the City's TCEA.

1. Incentives for redevelopment so that blight associated with vacant or abandoned buildings can be reduced and allow more dense and/or intense uses in built-up areas.
2. Requirements for larger vacant parcels to contain a mix of residential and non-residential uses to facilitate a reduction in vehicle miles traveled and promote energy-efficient land use patterns.
3. Adoption of new and revised standards in TCEA zones concerning mobility funding.
4. Incentives for infill development in built-up areas.
5. Requirements for new multi-family development in the University of Florida Context area (as mapped in the UF Campus Master Plan) to fund transit capital needs associated with that area.
6. Support for alternative modes of transportation as benefiting the overall transportation system.
7. Funding requirements for the construction of a new or expanded bus maintenance and operations facility to allow expansion of the Regional Transit System (RTS) service. Without the new or expanded maintenance/operations facility, RTS is constrained due to lack of ability to service additional transit vehicles. Additional transit vehicles are an important component of enhanced transit frequencies or expanded hours of transit service.
8. Maintaining design requirements in the TCEA as a critical component.
9. A tiered system of standards/requirements in the TCEA zone policies that recognizes that higher mobility funding requirements in areas more distant from the city core are necessary to support mobility in those areas and serve as an incentive for redevelopment and infill development in core areas.

A summary of the most important changes in each element is listed below.

In the Concurrency Management Element: (1) The creation of new TCEA sub-zones and supporting standards and requirements for funding transportation mobility needs in the TCEA. Included within the standards is a new requirement for large developments generating more than 5,000 average daily trips to fund transit at 15-minute frequencies or be on an existing transit route that operates at minimum 15-minute frequencies, (2) New requirements for vacant parcels of 30 or more acres to have a mix of residential and non-residential uses with certain exceptions for infill parcels in built-up areas, (3) An increase in the allowable redevelopment trip credits as an important incentive for redevelopment, (4) Clear guidance for the City, the development community, and the public as to how annexed properties without City land use will be treated in the TCEA, and (5) Removal of the restriction on expanding the TCEA west of I-75 due to the citywide status of the Gainesville TCEA.

In the Future Land Use Element: (1) Added changes under Objective 4.4 about the treatment of annexed properties related to the TCEA, and (2) Added a new policy concerning large developments that trigger the State statutory threshold for Developments of Regional Impact (DRIs) that move forward without using the State-required DRI review process because they are exempt due to the City's dense urban land area status. The policy requires the development to address regional impacts associated with the development.

In the Transportation Mobility Element: (1) Deletion of Policy 7.1.13 concerning transportation mitigation requirements outside the TCEA, and (2) Added a policy concerning the implementation of bus rapid transit (BRT) based on route feasibility, funding availability, and financial feasibility.

In the Capital Improvements Element: (1) Added new TCEA zone policy numbers in Policy 1.2.6 concerning adopted level of service standards for transportation, and (2) Addition of new transit and transportation projects in the 5-Year Schedule of Capital Improvements.

### New TCEA Zones

The City's Existing TCEA was based on a geographic system that identified different transportation mobility needs and standards. The general philosophy and practices of the Existing TCEA are carried forward in the new policies for the overall TCEA. This provides continuity and clarity that is beneficial to the City and the development community.

Zone A was identified as the area where development and redevelopment should be given the greatest incentive due to: proximity to the university; the existence of the Community Redevelopment Areas; the gridded street network, and desire to promote East Gainesville.

Zone B was identified as a market-driven area for development that was characterized as generally built-up and subject to redevelopment.

Zone C was identified as a highly market-driven area for development that was characterized by proximity to UF, major shopping facilities and being heavily served by transit. The area contains both built-up and vacant areas.

Newly created Zone D is the area west of I-75 that falls within city limits. The primary strategy in this area is support for the extension of SW 40<sup>th</sup> Boulevard from SW Archer Road to SW 47<sup>th</sup> Avenue to provide a parallel road facility for I-75 relief. Other strategies include mitigation support for the construction of a new or expanded bus maintenance/operations facility to allow expansion of the transit fleet (currently the Regional Transit System has extremely limited fleet expansion ability due to the lack of maintenance facilities). Transit will serve as a mobility strategy associated with Archer Road congestion for this area. Since this area is west of I-75, supplying transportation mobility is more difficult, and the standards are tiered to reflect this.

Zone E is the northern area of the city that primarily consists of vacant lands distant from the city core. The primary transportation mobility strategy in this area involves the widening of SR 121 (the extension of NW 34<sup>th</sup> Street) past US 441 to CR 231. This strategy is appropriate because much of the vacant land shares the use of SR 121 with truck and industrial traffic in the area.

Other strategies include mitigation support for the construction of a new or expanded bus maintenance/operations facility to allow expansion of the transit fleet (currently the Regional Transit System has extremely limited fleet expansion ability due to the lack of maintenance facilities). Since this area is distant from the city core and there is no current transit service available, the standards associated with this zone are tiered to reflect the fact that supplying transportation mobility in this area is more difficult.

Zone M contains the Butler Plaza and SW 20<sup>th</sup> Avenue annexed areas that are anticipated to be more densely and intensely developed with commercial and residential uses as part of the Butler Plaza expansion and the Urban Village overlay plan. Zone M is designated primarily as a multi-modal zone with strategies to support transit, pedestrians, bicyclists, and a more gridded street network in the area (including the extension of SW 62<sup>nd</sup> Boulevard and the construction of Hull Road as approved in Option M by the MTPO). This area is located proximate to the University of Florida (a major employer and a major trip destination). This multi-modal approach is seen as the best solution to handle mobility needs in the area due to congestion on Archer Road and SW 34<sup>th</sup> Street and the lack of roadway widening solutions for these facilities. It is also complementary to the interconnectivity between this area and the University of Florida.

#### Development on annexed property without a City land use designation

Development on annexed property within the state-mandated TCEA that does not have a City land use designation (either pre- or post-DULA status) shall be regulated for concurrency in accordance with Future Land Use Element Objective 4.4 and its sub-policies and Section 171.062(2), Florida Statutes, which state that such developments shall continue to be subject to the County land use plan and county zoning regulations until such time as the City adopts a Comprehensive Plan amendment that includes the annexed area. The County's transportation level of service standards and concurrency management procedures shall apply to these properties.

#### Additional regulations

In addition to the zone designations and mitigation requirements, there are additional policies that provide redevelopment credits in order to incentivize redevelopment over greenfield development. The special regulations for auto-oriented uses, design policies, streetscaping and landscaping requirements, and restrictions on excess parking are continued in the new TCEA.

#### Impact on Affordable Housing

This ordinance will not have a direct impact on the provision of affordable housing. However, since it relates to the expansion of the TCEA, more affordable housing may become available as a result of changing the strict adherence to transportation concurrency requirements, which limits development potential in areas with roads not meeting adopted LOS standards.

Public notice was published in the Gainesville Sun on June 9, 2009. The Plan Board held a public hearing June 25, 2009. Planning Division staff recommended that the Plan Board approve the

petition. The Plan Board, by a vote of 5-1, recommended that the City Commission approve Petition PZ-09-67 CPA.

On July 28, 2009, the City Commission approved the petition and this ordinance, by a vote of 6-0, for transmittal to the Florida Department of Community Affairs (DCA) for review in accordance with state law.

CITY ATTORNEY MEMORANDUM

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The first hearing was held at the transmittal stage and was advertised seven days prior to the first public hearing. The second hearing will be held at the adoption stage of the ordinance and must be advertised five days before the adoption hearing.


The proposed amendment to the Comprehensive Plan was transmitted to the State Department of Community Affairs (DCA) for written comment after the first hearing. The comments, recommendations or objections of the DCA must be considered by the Commission at the adoption hearing. At the adoption hearing, the City Commission may adopt the ordinance, adopt the ordinance as amended, or not adopt the ordinance.

Following second reading, if the ordinance is adopted or adopted with amendments, the Plan amendment will not become effective until the DCA 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:

  
Nicolle M. Shalley  
Senior Assistant City Attorney

Approved and  
submitted by:

  
Marion J. Radson  
City Attorney

Passed on first reading by a vote of 6-0.

MJR/NS/sw



EXHIBIT "A" TO COVER MEMO  
(Legistar No. 090184)

STATE OF FLORIDA  
**DEPARTMENT OF COMMUNITY AFFAIRS**

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

CHARLIE CRIST  
Governor

THOMAS G. PELHAM  
Secretary

October 29, 2009

The Honorable Pegeen Hanrahan  
Mayor, City of Gainesville  
Post Office Box 490, Station 19  
Gainesville, Florida 32601-0490

Dear Mayor Hanrahan:

The Department has completed its review of the proposed Comprehensive Plan Amendment for the City of Gainesville (DCA 09-2), which was received on August 31, 2009. 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 three Future Land Use Map (FLUM) amendments and amendments to the Future Land Use, Transportation Mobility, Capital Improvement, and Concurrency Management Elements to amend the City's existing Transportation Concurrency Exception Area (TCEA) to reflect the City's designation as a dense urban land area. The Department supports the City in the designation of a TCEA as defined in Chapter 163, Florida Statutes and commends the City on developing and implementing land use and transportation strategies to support and fund mobility at this time. However, the Department has concerns that the policies related to including annexations within the TCEA outside of the process outlined in Section 163.3164(34), F.S., need be revised to reflect the appropriate process for the City to expand the TCEA in the future.

2555 SHUMARD OAK BOULEVARD ♦ TALLAHASSEE, FL 32399-2100  
850-488-8466 (p) ♦ 850-921-0781 (f) ♦ Website: [www.dca.state.fl.us](http://www.dca.state.fl.us)

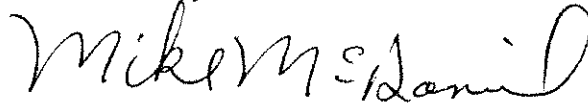
♦ COMMUNITY PLANNING 850-488-2356 (p) 850-488-3309 (f) ♦ FLORIDA COMMUNITIES TRUST 850-922-2207 (p) 850-921-1747 (f) ♦  
♦ HOUSING AND COMMUNITY DEVELOPMENT 850-488-7956 (p) 850-922-5623 (f) ♦



The Honorable Pegeen Hanrahan  
October 29, 2009  
Page 2

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](mailto:anastasia.richmond@dca.state.fl.us) or by phone at (850) 922-1794.

Sincerely,

A handwritten signature in black ink that reads "Mike McDaniel". The signature is written in a cursive, flowing style.

Mike McDaniel, Chief  
Office of Comprehensive Planning

MM/ar

Enclosures: Objections, Recommendations and Comments Report  
Review Agency Comments

cc: Mr. Scott Koons, AICP, North Central Florida Regional Planning Council  
Mr. Dean Mimms, AICP, Chief of Comprehensive Planning City of Gainesville  
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 09-2**

October 29, 2009  
Division of Community 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 09-2) 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 09-2

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

##### A. Future Land Use and Concurrency Management Elements

The amendments to the Concurrency Management Element propose to revise the standards and requirements for existing TCEA zones; create new TCEA zones with related standards and requirements; delete the prohibition on TCEA zones west of I-75; clarify the status of annexed property; create trip credits for certain redevelopment projects; create requirements for developments on vacant acreage; provide for the implementation of the Bus Rapid Transit (BRT) study and express bus services; clarify the requirements for drive-through facilities; require large developments to address regional impacts; and delete the legal descriptions of the existing TCEA. The Future Land Use Element amendments propose to specify TCEA zone requirements for annexed property and require large developments to address regional impacts.

**1. Objection:** As proposed, Concurrency Management Element Policies 1.1.24 and 1.1.25 and Future Land Use Element Policies 4.4.3 and 4.4.4 would allow for the City to expand the boundary of their Transportation Concurrency Exception Area (TCEA) for annexed areas, based on data and analysis intending to support the City's continued designation as a dense urban land area. However, in accordance with Section 163.3164(34), F.S., the Office of Economic and Demographic Research within the Legislature shall annually calculate the population and density criteria needed to determine which jurisdictions qualify as dense urban land areas by using the most recent land area data from the decennial census conducted by the Bureau of the Census of the United States Department of Commerce and the latest available population estimates determined pursuant to Section 186.901, F.S. If any local government has had an annexation, contraction, or new incorporation, the Office of Economic and Demographic Research shall determine the population density using the new jurisdictional boundaries as recorded in accordance with Section 171.091, F.S. Therefore, the proposed policies are inconsistent with the provisions of Section 163.3164(34), F.S. regarding the process to annual update the list of dense urban land areas, and thus do not allow the regulation and designation of lands based upon appropriate land use and population information consistent with 163.3177(6)a); and do not establish as TCEA exemption consistent with Section 163.3180(5), F.S.

Authority: Sections 163.3177, 163.3177(6)(a) and (h), 163.3177(8), and 163.3180(5), F.S. and Rule 9J-5.005(2), F.A.C.

**2. Recommendation:** The City should revise Concurrency Management Element Policies 1.1.24 and 1.1.25 and Future Land Use Element Policies 4.4.3 and 4.4.4 to provide for annexations to be added to the appropriate TCEA zone only after the Office of Economic and Demographic Research within the Legislature annually updates the jurisdictions which qualify as dense urban land areas. Alternatively, the City may wish to revise the policies to require data and analysis demonstrating any expansions to the TCEA meets the redevelopment criteria Chapter 163.3180(5)(b) 2. F.S. and Rule 9J-5.0055(6)(a)2. F.A.C., under which the City's original TCEA was established.

## II. CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN

### A. Future Land Use and Concurrency Management Elements

**1. Objection related to expansion of the area identified as a dense urban land area:** The proposed plan amendments are not consistent with and do not further the following goals and policies of the State Comprehensive Plan [Section 187.201, F.S.]:

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

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

**Exhibit "B"**  
**to cover memo (Legistar No. 090184)**

**City of Gainesville Response**  
**to**  
**Florida Department of Community Affairs**  
**regarding**  
**OBJECTIONS, RECOMMENDATIONS AND COMMENTS**  
**for the City of Gainesville**

**DCA Amendment No.: 09-2**

**I. Consistency with Chapter 163, F.S. and Rule 9J-5, F.A.C**

**A. Future Land Use and Concurrency Management Elements**

**DCA Objection:**

1. As proposed, Concurrency Management Element Policies 1.1.24 and 1.1.25 (**City Note: There is no Policy 1.1.25 in the City Concurrency Management Element submittal. This objection should be to Policy 1.1.24 a. and b.**) and Future Land Use Element Policies 4.4.3 and 4.4.4 would allow for the City to expand the boundary of their Transportation Concurrency Exception Area (TCEA) for annexed areas, based on data and analysis intending to support the City's continued designation as a dense urban land area. However, in accordance with Section 163.3164(34), F.S., the Office of Economic and Demographic Research within the Legislature shall annually calculate the population and density criteria needed to determine which jurisdictions qualify as dense urban land areas by using the most recent land area data from the decennial census conducted by the Bureau of the Census of the United States Department of Commerce and the latest available population estimates determined pursuant to Section 186.901, F.S. If any local government has had an annexation, contraction, or new incorporation, the Office of Economic and Demographic Research shall determine the population density using the new jurisdictional boundaries as recorded in accordance with Section 171.091, F.S. Therefore, the proposed policies are inconsistent with the provisions of Section 163.3164(34), F.S. regarding the process to annual update the list of dense urban land areas, and thus do not allow the regulation and designation of lands based upon appropriate land use and population information consistent with 163.3177(6)a); and do not establish as TCEA exemption consistent with Section 163.3180(5), F.S.

Authority: Sections 163.3177, 163.3177(6)(a) and (h), 163.3177(8), and 163.3180(5), F.S. and Rule 9J-5.005(2), F.A.C.

DCA Recommendation:

The City should revise Concurrency Management Element Policies 1.1.24 and 1.1.25 (**City Note: There is no Policy 1.1.25 in the City's Concurrency Management Element submittal. This recommendation should be to Policy 1.1.24 a. and b.**) and Future Land Use Element Policies 4.4.3 and 4.4.4 to provide for annexations to be added to the appropriate TCEA zone only after the Office of Economic and Demographic Research within the Legislature annually updates the jurisdictions which qualify as dense urban land areas. Alternatively, the City may wish to revise the policies to require data and analysis demonstrating any expansions to the TCEA meets the redevelopment criteria Chapter 163.3180(5)(b)2. F.S. and Rule 9J-5.0055(6)(a)2. F.A.C. under which the City's original TCEA was established.

### City's Response

The City has deleted Concurrency Management Element Policy 1.1.24. a. and b. since it was redundant with Future Land Use Element Policies 4.4.3 and 4.4.4. Policies concerning annexed lands are more appropriately placed in the Future Land Use Element.

After several consultations by phone and e-mail with the Department of Community Affairs (DCA) staff, the City recommends adoption of the following amended language for Future Land Use Element Policies 4.4.3 and 4.4.4. Newly proposed text is shown in double underline, and deleted text is shown with strike-through.

#### Future Land Use Element Policy 4.4.3

Properties that involve a large-scale land use amendment shall be placed in a TCEA zone as part of the large-scale amendment process for the property. This shall be done by simultaneous amendments to the appropriate TCEA maps in the Comprehensive Plan. Consistent with Policy 1.5.6, the City shall provide sufficient Data and Analysis information with the associated Comprehensive Plan amendments to ensure that the City's status as a dense urban land area (DULA) an urban service area is maintained after annexation.

#### Future Land Use Element Policy 4.4.4

Properties that involve a small-scale land use amendment shall be placed in a TCEA zone during the next large-scale amendment cycle. During the interim period after obtaining City land use but prior to placement in a TCEA zone, development on property east of I-75 shall provide for and fund mobility needs by meeting the standards and requirements, as set for the in the Comprehensive Plan, of the most physically proximate TCEA zone. Development on property west of I-75 shall meet the standards and requirements, as set forth in the Comprehensive Plan, for Zone D. Consistent with Policy 1.5.6, the City shall provide sufficient Data and Analysis information with the associated Comprehensive Plan amendments to ensure that the City's status as a dense urban land area (DULA) an urban service area is maintained after annexation.