

MEMORANDUM

Office of the City Attorney

040756


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Box 46

TO: Mayor and City Commission **DATE:** March 28, 2005
FROM: City Attorney **CONSENT**
SUBJECT: Final Administrative Order In the Matter of Rezoning Certain Properties from "RC" to "RMF-5" filed by the City of Gainesville, Florida, a Municipal Corporation; Legistar No. 040756; Petition No. 193ZON-04PB

Recommendation: The City Commission authorize the Mayor and Clerk of the Commission to execute the Final Administrative Order.

The City Commission, at its meeting of March 14, 2005, announced its oral order in the matter of rezoning certain properties from "RC" to "RMF-5" - Petition No. 193ZON-04PB, (Legistar No. 040756). At the conclusion of the hearing, the City Commission voted to deny the petition. City Commission Rules require the decision to be embodied in a written order. Copies of the proposed order were submitted to the Petitioner and affected parties.

Prepared
and submitted by:


Marion J. Radson
City Attorney

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**IN THE MATTER OF REZONING CERTAIN PROPERTIES
FROM "RC" TO "RMF-5" FILED BY
THE CITY OF GAINESVILLE, FLORIDA,
A MUNICIPAL CORPORATION,
LEGISTAR NO. 040756
PETITION NO. 193ZON-04PB**

ORDER

The City Commission of the City of Gainesville held a formal quasi-judicial hearing on March 14, 2005 on Petition No. 193ZON-04PB, (Legistar No. 040756), filed by the City of Gainesville (Petitioner)

Petition No. 193ZON-04PB is to rezone properties from RC (12 units/acre residential conservation district) to RMF-5 (12 units/acre single-family/multiple-family residential district). The subject properties are located in the vicinity at 419 N.W. 10th Street, 913 N.W. 4th Place, 907 N.W. 4th Place, 901 N.W. 4th Place, 326 N.W. 9th Street, 324 N.W. 9th Street, 315 N.W. 10th Street, 304 N.W. 9th Street, 912 N.W. 3rd Avenue, 918 N.W. 3rd Avenue, 311 N.W. 10th Street, and 928 N.W. 3rd Avenue, Gainesville, Florida

The City Commission included the following persons as affected parties: Ann Neter Heard, Bettye Stoney Allen, Robert Pearce, Reatha M. Ellis, and David Forrestel. Collectively these persons are hereinafter referred to as Affected Parties.

STATEMENT OF THE PETITION

Petition No. 193ZON-04PB is an application to rezone 12 parcels of land from the zoning designation of "RC (12 units/acre residential conservation district)" to "RMF-5 (12 units/acre single-family/multiple-family residential district)". The subject properties consist of approximately two acres, and are more particularly shown on the map, attached hereto as Exhibit "A".

PRELIMINARY STATEMENT

After hearing formal presentations, receiving evidence, and hearing testimony from City staff as the Petitioner, affected parties, all of whom were duly sworn, and receiving comments from the general public, the City Commission voted to deny Petition 193ZON-04PB to rezone property from RC (12 units/acre residential conservation district) to RMF-5 (12 units/acre single-family/multiple-family residential district).

FINDINGS OF FACT

Based upon the oral and documentary evidence presented at the formal quasi-judicial hearing and the entire record of this proceeding, the following findings of fact are made:

- 1) Eleven of the 12 subject parcels are on the same block. The block is bounded by Northwest 4th Place on the north, Northwest 3rd Avenue on the south, Northwest 10th Street on the west, and Northwest 9th Street on the east. The northwest quadrant of that block consists of the Wilhelmina Johnson Resource Center, a building operated by the Cultural Arts Coalition for the benefit of arts and civic organizations. The 12th parcel is located on the northeast corner of Northwest 10th Street and Northwest 4th Place, just north of the Wilhelmina Johnson Center.
- 2) According to Alachua County Property Appraiser information, three of the subject parcels are vacant. The other nine parcels contain one and two-family residences. Landlord permits for 2004 were issued for seven of those residences, one is unoccupied and was not issued a landlord permit in 2004, and one has received homestead exemption.
- 3) The subject parcels and surrounding areas are part of the Fifth Avenue/Pleasant Street Redevelopment District.
- 4) The Wilhelmina Johnson Center is zoned PS (Public Services and Operations) Properties to the north and east of the subject parcels are zoned RMF-5. The subject parcels are at the edge of the RC zoned area. The north side of Northwest 3rd Avenue is zoned RMF-5 from Northwest 12th Drive to Northwest 10th Street, which is the western boundary of the subject properties. To the south of the subject properties across Northwest 3rd Avenue, land is zoned RH-1 (Residential High Density, 8-43 units/acre). To the east of the subject properties across Northwest 9th Street, land is zoned RSF-4 (Single-Family Residential, up to 8 units/acre). Parcels to the west (across Northwest 10th Street) and to the south (across Northwest 3rd Avenue) of the subject parcels are within the University Heights North Historic District.
- 5) The Plan Board reviewed the petition, and after discussion, made the following determinations: Although some areas of the Fifth Avenue/Pleasant Street Redevelopment District have a "single-family character", several factors indicate that owner occupied single-family development is not feasible for the subject parcels, either

now or in the future. Allowing a greater range of multiple-family housing types on the subject parcels may encourage investment in them. The Plan Board voted to recommend approval of the proposed rezoning.

- 6) City staff recommended denial of the Petition for the reasons stated in their memorandum to the City Plan Board dated January 20, 2005, (See attachment to the City Commission Agenda packet on this item), and because the proposed RMF-5 zoning is likely to encourage rental occupancy instead of owner/occupancy of single-family dwellings in this area
- 7) Two of the affected parties testified in favor of the rezoning, and one spoke against the rezoning based upon the effect of the zoning on owner/occupancy of single-family homes and other factors related to blight and crime.
- 8) During the public hearing, the City Commission heard the comments of interested persons, all of whom spoke against the rezoning.

CONCLUSIONS OF LAW

Based upon the oral and documentary evidence presented at the formal quasi-judicial hearing and the entire record of this proceeding, the following conclusions of law are made:

1. The testimony and evidence presented shows that the current zoning of the property is consistent with the Future Land Use Element of the Comprehensive Plan
2. The current zoning is compatible with surrounding land uses and zoning designations
3. The current zoning encourages and fosters owner/occupancy of single-family dwellings that is a significant City goal and a critical factor in the character of this neighborhood.

ORDER

Based upon the foregoing findings of fact and conclusions of law, the City Commission at its March 14, 2005 quasi-judicial hearing denies Petition 193ZON-04PB to rezone the subject parcel from RC (12 units/acre residential conservation district) to RMF-5 (12 units/acre single-family/multiple-family residential district)

FINAL ORDER
LEGISLATIVE MATTER NO. 040756
PETITION 193ZON-04PB

Entered this _____ day of March, 2005 nunc pro tunc March 14, 2005.

Mayor

Attest:

Clerk of the Commission

Copies furnished to:

Ann Neter Heard
Bettye Stoney Allen
Robert Pearce
Reatha M Ellis
David Forrestel
Barbara Lipscomb, Interim City Manager
Marion J Radson, City Attorney

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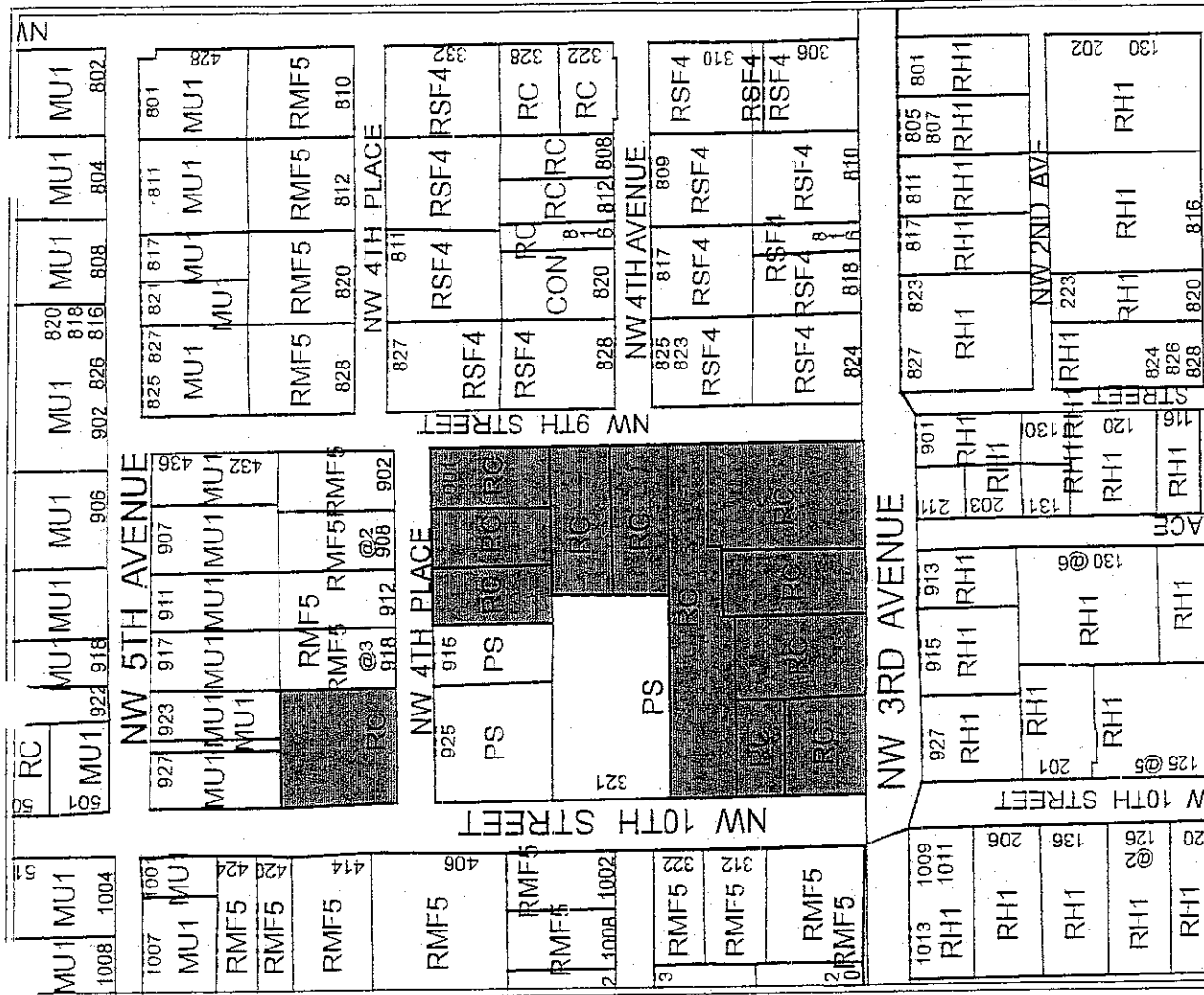
Zoning Districts

- RSF1 Single-Family Residential (3.5 du/acre)
- RSF2 Single-Family Residential (4.6 du/acre)
- RSF3 Single-Family Residential (5.8 du/acre)
- RSF4 Single-Family Residential (8 du/acre)
- RMF5 Residential Low Density (12 du/acre)
- RC Residential Conservation (12 du/acre)
- MH Mobile Home Residential (12 du/acre)
- RMF6 Multiple-Family Medium Density Residential (8-15 du/acre)
- RMF7 Multiple-Family Medium Density Residential (8-21 du/acre)
- RMF8 Multiple-Family Medium Density Residential (8-30 du/acre)
- RMU Residential Mixed Use (up to 75 du/acre)
- RH1 Residential High Density (8-43 du/acre)
- RH2 Residential High Density (8-100 du/acre)
- OR Office Residential (up to 20 du/acre)
- OF General Office
- PD Planned Development
- BUS General Business
- BA Automotive-Oriented Business
- BT Tourist-Oriented Business
- MU1 Mixed Use Low Intensity (10-30 du/acre)
- MU2 Mixed Use Medium Intensity (14-30 du/acre)
- CCD Central City District
- W Warehousing and Wholesaling
- I1 Limited Industrial
- I2 General Industrial
- AGR Agriculture
- CON Conservation
- MD Medical Services
- PS Public Services and Operations
- AF Airport Facility
- ED Educational Services
- CP Corporate Park

- Historic Preservation/Conservation District
- Special Area Plan
- Division line between two zoning districts
- City Limits

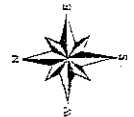
Area under petition consideration

EXHIBIT "A"



ZONING

Name	Petition Request	Map(s)	Petition Number
Please see attached	From RC to RMF5	3950	193ZON-04PB



No Scale