

MEMORANDUM

Office of the City Attorney

Box 46

Phone: 334-5011/Fax 334-2229

TO: Mayor and City Commission

DATE: June 27, 2005

FROM: City Attorney

CITY ATTORNEY
FIRST READING

SUBJECT: Ordinance No. 0-05-56, Petition 52LUC-05PB

An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Map; by changing the land use categories of certain properties from "Single-Family (up to 8 units per acre)" to "Conservation", as more specifically described in this Ordinance, generally located in the vicinity of 3304 South Main Street; providing a severability clause; providing a repealing clause; and providing an effective date.

Recommendation: The City Commission: 1) approve Petition No. 52LUC-05PB; and 2) adopt the proposed ordinance on first reading.

STAFF REPORT

This petition is related to zoning petition 53ZON-05 PB. The subject properties are located in the Kirkwood subdivision on the west side of South Main Street, south of Southwest 29th Place. This petition includes two properties. A parcel of approximately 24 acres is located just north of the Bivens Arm Nature Park and is owned by the City of Gainesville. The second parcel of approximately nine acres lies between the first parcel and residential properties located along the south side of Southwest 29th Place. The 24-acre property is designated to become part of the Bivens Arm Nature Park, while the other property will remain in private ownership.

To the north of the site is residential land with SF (Single-Family, up to 8 units per acre) land use and RSF-1 (3.5 units per acre single-family residential) zoning and land with CON (Conservation) land use and PD (Planned development) zoning. East of the subject properties across South Main Street is single-family residential development with RSF-1 zoning and SF land use, and an office building with PD zoning and land use designations of PUD (Planned use district) and CON. To the south is Bivens Arm Nature Park, with CON land use and zoning. On the west side of the subject properties are developments with PD and RH-1 (8-43 units/acre residential high density district) zoning and land use designations of RH (8-100 units/acre Residential High Density) and RL (Residential Low Density, up to 12 units per acre).

The request of this petition is to change the land use of the subject properties from SF to CON. This change is requested in order to preserve and protect an area that is environmentally sensitive, while also allowing for an increase in the acreage of the Bivens Arm Nature Park. This will provide for additional passive recreation opportunities for the public.

The Plan Board heard the petition and recommended that it be approved.

Public notice was published in the Gainesville Sun on April 5, 2005. Letters were mailed to surrounding property owners on April 6, 2005. The Plan Board held a public hearing April 21, 2005. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board recommended that the City Commission approve Petition 52LUC-05 PB. Plan Board vote 4-0.

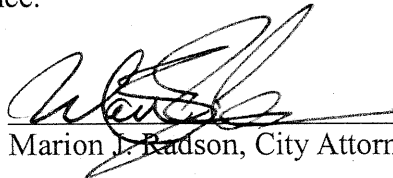
CITY ATTORNEY MEMORANDUM

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The first hearing is held at the transmittal stage and must be 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.

If adopted on first reading, the proposed amendment to the Comprehensive Plan will be transmitted to the State Department of Community Affairs (DCA) for written comment. Any comments, recommendations or objections of the DCA will be considered by the Commission at the second public hearing.

Following second reading, 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 and submitted by:



Marion J. Radson, City Attorney

MJR/afm

H:\Marion Radson\Planning\52LUC CVR.DOC

D R A F T

May 4, 2005

ORDINANCE NO. _____
0-05-56

1
2
3
4 **An ordinance amending the City of Gainesville 2000-2010**
5 **Comprehensive Plan, Future Land Use Map; by changing the**
6 **land use categories of certain properties from “Single-Family**
7 **(up to 8 units per acre)” to “Conservation”, as more specifically**
8 **described in this Ordinance, generally located in the vicinity of**
9 **3304 South Main Street; providing a severability clause;**
10 **providing a repealing clause; and providing an effective date.**

11
12
13 **WHEREAS**, publication of notice of a public hearing was given that the Future Land Use
14 Map be amended by changing the land use categories of certain properties from “Single-Family (up
15 to 8 units per acre) to “Conservation”; and

16 **WHEREAS**, notice was given and publication made as required by law and a public
17 hearing was held by the City Plan Board on April 21, 2005; and

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

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

D R A F T

May 4, 2005

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

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

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

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

10 **Section 1.** The Future Land Use Map of the City of Gainesville 2000-2010 Comprehensive
11 Plan is amended by changing the land use category of the following described properties from
12 “Single-Family (up to 8 units per acre) to “Conservation”:

13 See Exhibit "A" attached hereto and made a part hereof as if set forth
14 in full.

15
16 **Section 2.** The City Manager is authorized and directed to make the necessary changes in
17 maps and other data in the City of Gainesville 2000-2010 Comprehensive Plan, or element, or
18 portion thereof in order to comply with this ordinance.

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

D R A F T

May 4, 2005

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

3 **Section 5.** This ordinance shall become effective immediately upon passage on second
4 reading; however, the effective date of this plan amendment shall be the date a final order is issued
5 by the Department of Community Affairs finding the amendment to be in compliance in accordance
6 with Chapter 163.3184, F.S.; or the date a final order is issued by the Administration Commission
7 finding the amendment to be in compliance in accordance with Chapter 163.3184, F.S.

8 **PASSED AND ADOPTED** this _____ day of _____, 2005.

9
10 _____
11 PEGEEN HANRAHAN, MAYOR

12
13 ATTEST: APPROVED AS TO FORM AND LEGALITY:

14
15 _____
16 KURT LANNON, MARION J. RADSON, CITY ATTORNEY
17 CLERK OF THE COMMISSION

18
19 This ordinance passed on first reading this ____ day of _____, 2005.

20
21 This ordinance passed on second reading this ____ day of _____, 2005.

22
23 H:\Marion Radson\Planning\52LUC05PBpet.DOC

EXHIBIT A

Legal Description: Parcel 4

A 24.12 acre parcel of land lying in the D.L. Clinch Grant, Township 10 South, Range 20 East, Alachua County, Florida and being more particularly described as follows:

For a point of reference commence at a concrete monument with cap #RLS 509 at the S.E. corner of Lot 1, Kirkwood Unit 1, a subdivision according to the plat thereof as recorded in Plat Book "I", Page 33 of the public records of Alachua County, Florida; thence S09°21'07"W, along the Westerly right of way line of State Road No. 329 (100' wide right of way), a distance of 801.00 feet to a #4 rebar with cap #LB7239 and the POINT OF BEGINNING; the following 7 calls being along the boundary of that property described in official records book 2762, page 839 (Instrument No. 1971321 3 pages); thence S09°21'07"W, along said right of way line, a distance of 457.69 feet; thence departing said right of way line; N82°35'01"W, a distance of 956.98 feet to a concrete monument with cap #RLS 509; thence N06°47'38"W, a distance of 464.62 feet to a concrete monument with cap #RLS 509; thence N06°39'47"W, a distance of 660.09 feet to a concrete monument with cap #RLS 509; thence S84°13'42"W, a distance of 329.87 feet to a concrete monument with no identification; thence N06°43'43"W, a distance of 660.03 feet to a concrete monument with cap #RLS 509; thence N84°07'40"E, a distance of 199.87 feet to a #4 rebar with cap #LB7239; thence departing said boundary of property described in official records book 2762, page 839 (Instrument No. 1971321, 3 pages), S24°18'07"E, a distance of 379.75 feet to a #4 rebar with cap #LB7239; thence S31°11'06"E, a distance of 331.93 feet to a #4 rebar with cap #LB7239; thence S66°06'30"E, a distance of 419.35 feet to a #4 rebar with cap #LB7239; thence S77°23'40"E, a distance of 199.37 feet to a #4 rebar with cap #LB7239; thence S09°21'07"W, a distance of 503.94 feet to a #4 rebar with cap #LB7239; thence S80°23'14"E, a distance of 545.00 feet to an intersection with said Westerly right of way line of State Road No. 329 (100' wide right of way) and the POINT OF BEGINNING. Containing 24.13 acres, more or less.

Bearing base for legal description based from state plane coordinates for the centerline of state road no. 329 as provided by the Florida department of transportation; as computed for the Florida north zone using the north American datum of 1983.

15699-077-000

LESS AND EXCEPT:

Legal Description: Parcel 4-A

A 0.11 acre parcel of land lying in the D.L. Clinch Grant, Township 10 South, Range 20 East, and also being a portion of Parcel 4 as shown on a Boundary Survey and Minor Subdivision recorded in Minor Subdivision Book "2", Pages 48 and 49 of the Public Records of Alachua County, Florida and being more particularly described as follows:

For a point of reference commence at a concrete monument with cap #RLS 509 at the N.W. corner of Parcel 4 as shown on a Boundary Survey and Minor Subdivision recorded in Minor Subdivision Book "2", Pages 48 and 49 of the Public Records of Alachua County, Florida; thence North $84^{\circ}07'40''$ East, along the north line of said Parcel 4, a distance of 199.87 feet to the Northeast corner of said Parcel 4, also being the Northwest corner of Parcel 5 of said Boundary Survey and Minor Subdivision; thence South $24^{\circ}18'07''$ East, along the east line of said Parcel 4, a distance of 144.08 feet to the Point Of Beginning; thence continue South $24^{\circ}18'07''$ East, along said East line of Parcel 4, a distance of 144.53 feet to an intersection with the southwesterly projection of the south line of Parcel A, as shown on said Boundary Survey and Minor Subdivision; thence South $72^{\circ}20'55''$ West, along said southwesterly projection of the South line of said Parcel A, a distance of 67.07 feet; thence North $01^{\circ}40'06''$ East, a distance of 152.12 feet to an intersection with the East line of said Parcel 4 and the Point Of Beginning. Containing 0.11 acres, more or less.

Bearing base for legal description is North $84^{\circ}07'40''$ East as given for the north line of Parcel 4 as shown on a Boundary Survey and Minor Subdivision recorded in Minor Subdivision Book "2", Pages 48 and 49 of the Public Records of Alachua County, Florida

Legal Description: Parcel 5 Minor Subdivision Book "2", Pages 48 and 49.

4 9.17 acre parcel of land lying in the D.L. Clinch Grant, Township 10 South, Range 20 East, Alachua County, Florida and being more particularly described as follows:

For a POINT OF BEGINNING, commence at a concrete monument with cap #RLS 509 at the S.E. corner of Lot 1, Kirkwood Unit 1, a subdivision according to the plat thereof as recorded in Plat Book "1", Page 33 of the public records of Alachua County, Florida; thence S09°21'07"W, along the Westerly right of way line of State Road No. 329 (100' wide right of way), a distance of 201.00 feet to a #4 rebar with cap #LB7239; thence departing said Westerly right of way line; N80°23'14"W, a distance of 485.82 feet to a #4 rebar with cap #LB7239; thence N77°23'40"W, a distance of 59.27 feet to a #4 rebar with cap #LB7239; thence S09°21'07"W, a distance of 99.16 feet to a #4 rebar with cap #LB7239; thence N77°23'40"W, a distance of 199.37 feet to a #4 rebar with cap #LB7239; thence N66°06'30"W, a distance of 419.35 feet to a #4 rebar with cap #LB7239; thence N31°11'06"W, a distance of 331.93 feet to a #4 rebar with cap #LB7239; thence N24°18'07"W, a distance of 379.75 feet to a #4 rebar with cap #LB7239 and an intersection with the north line of property described in official records book 2762, page 839 (Instrument No. 1971321, 3 pages); thence N84°07'40"E, a distance of 105.41 feet to a #4 rebar with cap #LB7239; thence departing boundary of property described in official records book 2762, page 839 (Instrument No. 1971321, 3 pages), S24°18'07"E, a distance of 206.94 feet to a #4 rebar with cap #LB7239; thence N72°20'55"E, a distance of 202.36 feet to a concrete monument with cap #RLS 509, also being the Northwesterly corner of Lot 5, of said Kirkwood Unit 1; thence S18°04'39"E, along the west line of said lot 5, a distance of 24.46 feet to a concrete monument with cap #RLS 509; thence continue along said west line of Lot 5, S31°11'06"E, a distance of 233.31 feet to concrete monument with cap #RLS 509; thence S66°06'30"E, a distance of 295.34 feet to a concrete monument with cap #RLS 509 marking the point of intersection on the southerly line of Lot 4 of said Kirkwood Unit 1; thence S77°23'40"E, along the southerly boundary of said Kirkwood Unit 1, a distance of 218.13 feet to a concrete monument with cap #RLS 509 marking the point of intersection on the southerly line of Lot 3, of said Kirkwood Unit 1; thence S80°23'14"E, along the south line of lots 1 through 3 of said Kirkwood Unit 1, a distance of 479.66 feet to the POINT OF BEGINNING. Containing 9.17 acres, more or less.

EXHIBIT "A" 3 OF 4

15699-000-000

ALSO:

Legal Description: Parcel 5-A

A 0.10 acre parcel of land lying in the D.L. Clinch Grant, Township 10 South, Range 20 East, and also being a portion of Parcel 5 as shown on a Boundary Survey and Minor Subdivision recorded in Minor Subdivision Book "2", Pages 48 and 49 of the Public Records of Alachua County, Florida and being more particularly described as follows:

For a point of reference commence at a concrete monument with cap #RLS 509 at the N.W. corner of Parcel 4 as shown on a Boundary Survey and Minor Subdivision recorded in Minor Subdivision Book "2", Pages 48 and 49 of the Public Records of Alachua County, Florida; thence North $84^{\circ}07'40''$ East, along the north line of said Parcel 4, a distance of 199.87 feet to the Northeast corner of said Parcel 4, also being the Northwest corner of Parcel 5 of said Boundary Survey and Minor Subdivision and the Point Of Beginning; thence continue North $84^{\circ}07'40''$ East, along the north line of said Parcel 5, a distance of 63.64 feet; thence departing said north line of Parcel 5; South $01^{\circ}40'06''$ West, a distance of 137.88 feet to an intersection with the west line of said Parcel 5; thence North $24^{\circ}18'07''$ West, along the west line of said Parcel 5, a distance of 144.08 feet to the Point Of Beginning. Containing 0.10 acres, more or less.

Bearing base for legal description is North $84^{\circ}07'40''$ East, as given for the north line of Parcel 4 as shown on a Boundary Survey and Minor Subdivision recorded in Minor Subdivision Book "2", Pages 48 and 49 of the Public Records of Alachua County, Florida.

