

CITY OF GAINESVILLE
Office of the City Attorney

MEMORANDUM

Box No. 46

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TO: Mayor and City Commission**DATE:** December 7, 1998**FROM:** Marion J. Radson, City Attorney**CITY ATTORNEY****SECOND READING****SUBJECT:** Ordinance No. 0-99-05

An Ordinance of the City of Gainesville, Florida, imposing a temporary moratorium on the issuance of any permits, development orders or any other official action of the City of Gainesville having the effect of permitting the construction or erection of any structure, including telecommunication towers, located in that certain area within the City of Gainesville, as more specifically defined in the Ordinance; providing a procedure for extraordinary hardship; providing a severability clause; and providing an immediate effective date.

Recommendation: The City Commission hear a presentation and adopt the proposed ordinance (as amended).

BACKGROUND

On October 26, 1998 the City Commission authorized the City Attorney to draft and the Clerk of the Commission to advertise a moratorium ordinance.

The purpose of this Ordinance is to enable the City of Gainesville sufficient time to study the impact and effect of structures, including telecommunication towers, located within the Moratorium area. The moratorium also allows the City the time to amend the Airport Hazard Zoning Code, the Comprehensive Plan, and the City of Gainesville Code of Ordinances, as may be necessary, to incorporate specific conditions, regulations, restrictions or methods of reviewing applications for development permits for certain structures, including telecommunication towers. The amendments will insure that those structures located in the Moratorium area will be consistent with State law, the Comprehensive Plan and the City of Gainesville Code of Ordinances. During this time, the City will not issue any development orders which have the effect of allowing or permitting the construction or erection of certain structures, including telecommunication towers, within the Moratorium area.

The Ordinance fulfills the City's constitutional charge and statutory obligations to protect and preserve the public health, welfare and safety of the citizens of the City of Gainesville, the Gainesville Regional Airport, and its users.

PROPOSED AMENDMENT FOR CONSIDERATION

At the first reading of the ordinance, the City Commission asked staff to develop an amendment to the proposed ordinance for the purpose of addressing the concerns raised by Mr. Keith


Baucom of PCR. A telephone conference between the planning staff, GACRAA staff, Mr. Al Roberts, FDOT, and Mr. Keith Baucom of PCR and his attorneys, resulted in the development of an amendment that would add the following subsection to Section 4 of the Ordinance:

“(d) During the imposition of the Moratorium, the City of Gainesville will issue building permits for structures within the Moratorium area provided that the applicant for building permit first obtains a written determination from the Federal Aviation Administration (F.A.A.) that the construction does not exceed any Federal obstruction standards as contained in 14 C.F.R. ss.77.21, 77.23,77.25, 77.28, and 77.29, and submits a true copy of the FAA determination to the City of Gainesville.”

As of the writing of this memorandum, both PCR and the Florida Department of Transportation find the amendatory language acceptable.

A public meeting was held on Tuesday, December 1, 1998, at 2:30 p.m. at City Hall. Mr. Roberts appeared and discussed the meaning and effect of Part 77, Code of Federal Regulations, and Chapter 333, Florida Statutes. Members of the public asked questions and offered their views. At the conclusion of the meeting, Mr. Roberts said that, in his opinion, the City is better off with the moratorium ordinance than without the ordinance.

Prepared and Submitted by:


Marion J. Radson
City Attorney

MJR/afm

Attachment

Passed on First Reading by a vote of 5-0.