



MEMORANDUM

Office of the City Attorney

LEGISTAR NO. 050766

Box 46
Phone: 334-5011/Fax 334-2229

TO: Mayor and City Commission

DATE: October 23, 2006

FROM: City Attorney

CITY ATTORNEY
SECOND READING

SUBJECT: Ordinance No. 0-06-56, Petition 172LUC-05PB
An Ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan; by changing the land use category of certain property annexed into the City from the Alachua County land use category of "LOW, Low Density Residential" to the City of Gainesville land use category of "Conservation"; consisting of approximately 13 acres, located in the vicinity of the 900 block of Southwest 34th Street, west side, as more specifically described in this Ordinance; providing a severability clause; providing a repealing clause; and providing an effective date.

Recommendation: The City Commission: 1) receive the report of the Department of Community Affairs; and 2) adopt the proposed ordinance.

STAFF REPORT

The subject property is located west of Southwest 34th Street in the 900 block. The property proposed for the land use change is approximately 13 acres in size and is composed of three tax parcels. This property was annexed into city limits on November 14, 2005. This petition is being proposed in order to bring the parcel under the City's land use and zoning regulations (as is required for all annexed properties).

The property is vacant, and all three parcels are located in the 10-year Flood Channel. The Land Development Code (Sec. 30-286) prohibits permanent structures or fills in the flood channel district except structures and fills designed for flood prevention and control, streets, bridges, and sanitary sewer lift stations and utility lines. There is currently no vehicular access to these parcels.

The current Future land use category designation on this parcel is Alachua County Low Density Residential. The existing zoning is Alachua County Agriculture; see related Petition 173ZON-05PB. The petition proposal is to change the Future Land Use category to City of Gainesville category Conservation.

The parcels to the north of the subject parcels are designated PF (Public Facilities) and CON (a portion of the Hogtown Greenway). To the south and east, properties have an E (Education) land use category consistent with the University of Florida ownership of the land. To the west, the land is designated Alachua County Low Density Residential.

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

Public notice was published in the Gainesville Sun on April 4, 2006. Letters were mailed to surrounding property owners on April 5, 2006. The Plan Board held a public hearing April 20, 2006. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board recommended that the City Commission approve Petition 172LUC-06 PB. Plan Board vote 7-0.

CITY ATTORNEY MEMORANDUM

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The second hearing will be held at the adoption stage of the ordinance and must be advertised approximately five (5) days after the day that the second advertisement is published.

The State of Florida Department of Community Affairs issued a letter dated September 22, 2006, stating that the Department raises no objections to the proposed amendment. A copy of their letter is attached to this memorandum. Therefore, the City may now proceed with the final adoption of this ordinance.

The Plan amendment will not become effective until the State Department of Community Affairs 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

Attachment



09-26-J06/12:02 RCVD

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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

JEB BUSH
 Governor

THADDEUS L. COHEN, AIA
 Secretary

September 22, 2006

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

Dear Mayor Hanrahan:

The Department of Community Affairs has completed its review of the proposed Comprehensive Plan Amendment for the City of Gainesville (DCA No. 06-2), which was received on July 18, 2006. Copies of the proposed amendment have been distributed to appropriate state, regional and local agencies for their review, and their comments are enclosed.

The Department has reviewed the comprehensive plan amendment for consistency with Rule 9J-5, Florida Administrative Code (F.A.C.) and Chapter 163, Part II, Florida Statutes (F.S.) and the City of Gainesville Comprehensive Plan. The Department raises no objections to the proposed amendment, and this letter serves as the Department's Objections, Recommendations and Comments Report.

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 the Executive Director of the North Central Florida Regional Planning Council.

If you or your staff has any questions or if we may be of further assistance, please contact Ann Richmond, Senior Planner, at (850) 922-1794.

Sincerely,

Susan Poplin
 Acting Regional Planning Administrator

SP/ars

Enclosures: Review Agency Comments
 Transmittal Procedures

cc: Mr. Dean Mimms, AICP, Chief of Comprehensive Planning, City of Gainesville
 Mr. Charles Justice, Executive Director, North Central Florida Regional Planning Council

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100
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 Internet address: <http://www.dca.state.fl.us>

D R A F T

5/23/2006

ORDINANCE NO. _____
0-06-56

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2
3
4 **An Ordinance amending the City of Gainesville 2000-2010**
5 **Comprehensive Plan; by changing the land use category of certain**
6 **property annexed into the City from the Alachua County land use**
7 **category of "LOW, Low Density Residential" to the City of**
8 **Gainesville land use category of "Conservation"; consisting of**
9 **approximately 13 acres, located in the vicinity of the 900 block of**
10 **Southwest 34th Street, west side, as more specifically described in**
11 **this Ordinance; providing a severability clause; providing a**
12 **repealing clause; and providing an effective date.**
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14

15 **WHEREAS,** publication of notice of a public hearing was given that the Future Land Use
16 Map be amended by changing the land use category of certain lands annexed into the City from the
17 Alachua County land use category of "LOW, Low Density Residential"; to the City of Gainesville
18 land use category of "Conservation"; and

19 **WHEREAS,** notice by the Plan Board was given and publication made as required by law and
20 a public hearing was held by the City Plan Board on April 20, 2006; and

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

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

27 **WHEREAS,** a second advertisement no less than two columns wide by 10 inches long was

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1 placed in the aforesaid newspaper notifying the public of the second Public Hearing to be held at the
2 adoption stage at least five (5) days after the day the second advertisement was published; and

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

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 property from the
12 Alachua County land use category of “LOW, Low Density Residential” to the City of Gainesville
13 land use category of “Conservation”;

14 See legal description attached hereto as Exhibit "A", and made a part
15 hereof as if set forth in full.
16

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

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

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5/23/2006

1 **Section 4.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of such
2 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 by
5 the Department of Community Affairs finding the amendment to be in compliance in accordance with
6 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 _____, 2006.

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Pegeen Hanrahan, Mayor

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

18 _____
Kurt Lannon,
19 Clerk of the Commission

Marion J. Radson, City Attorney

20
21 This ordinance passed on first reading this ____ day of
22 _____,

23
24 This ordinance passed on second reading this ____ day of
25 _____,

26
27 MJR/afm

28
29 H:\Marion Radson\Planning\172LUC-05 pet.doc

Exhibit A

Legal Description for Parcel Numbers 06693-000-000 and 06694-000-000

Section 11, Township 10 South, Range 19 East

Lots 1 and 2 in Section 11, Township 10 South, Range 19 East, according to a survey plat of said Lot 2 made by J.W. Patton, in May 1923, recorded in Deed Book 250, page 397, of the Public Records of Alachua County, Florida, containing 376,200 square feet or 8.64 acres, more or less.

Legal Description for Parcel Numbers 06695-000-000

Section 11, Township 10 South, Range 19 East

Lot 3, of Thomas Sweat Subdivision of Lot 2, of Section 11, Township 10 South, Range 19 East, Alachua County, Florida. Said parcel contains 188,100 square feet or 4.32 acres, more or less.

EXHIBIT "A"