

**LEGISLATIVE #**

**200882A**



27 **WHEREAS**, the PUD land use category is an overlay land use district that may be applied to any  
28 specific property in the City, and which allows the consideration of unique, innovative, or  
29 narrowly-construed land use proposals that might otherwise not be allowed in the underlying  
30 land use category; and

31 **WHEREAS**, the PUD land use category, including all of its unique and specific land development  
32 regulations, is freely negotiated and voluntarily agreed to by the owner/developer of the  
33 subject property, thereby precluding any claims or actions under Florida law regarding  
34 regulatory takings, the Bert J. Harris, Jr., Private Property Rights Protection Act, development  
35 exactions under common law or Section 70.45, Florida Statutes, or the affordable housing  
36 provisions in Section 125.01055, Florida Statutes; and

37 **WHEREAS**, the City Plan Board, which acts pursuant to the authority granted in Section 4.02 of  
38 the Charter Laws of the City of Gainesville and which acts as the Local Planning Agency  
39 pursuant to Section 163.3174, Florida Statutes, held a public hearing on February 25, 2021, to  
40 consider this application and provide a recommendation to the City Commission; and

41 **WHEREAS**, on April 28, 2021, the City Commission held a special meeting and public hearing on  
42 this application and provided direction to draft this ordinance; and

43 **WHEREAS**, this amendment to the Future Land Use Map of the City of Gainesville  
44 Comprehensive Plan proposed herein qualifies as a small-scale development amendment as  
45 provided in Section 163.3187, Florida Statutes; and

46 **WHEREAS**, at least five days' notice has been given once by publication in a newspaper of  
47 general circulation notifying the public of this proposed ordinance and a public hearing held by  
48 the City Commission; and

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

51 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE,**

52 **FLORIDA:**

53 **SECTION 1.** The Future Land Use Map of the City of Gainesville Comprehensive Plan is  
54 amended by overlaying the Planned Use District (PUD) land use category on the following  
55 property that has an underlying land use category of Office (O) and Conservation (CON):

56 See legal description attached as **Exhibit A** and made a part hereof as if set forth  
57 in full. The location of the property is shown on **Exhibit B** for visual reference.  
58 In the event of conflict or inconsistency, **Exhibit A** shall prevail over **Exhibit B**.

59  
60 **SECTION 2.** The property described in Section 1 of this ordinance is governed by the  
61 following regulations:

- 62 1. Allowable uses include any uses allowed in the Urban 7 (U7) zoning district, as  
63 may be amended from time to time, with the exception of the following uses  
64 that are not allowed within the property that is the subject of this ordinance:
- 65 a. Flea market
  - 66 b. Tattoo parlor
  - 67 c. Smoke/vape shop
  - 68 d. Head shop
  - 69 e. Massage parlor
  - 70 f. Escort service
  - 71 g. Adult entertainment business
  - 72 h. Crematories and funeral parlor
  - 73 i. Amusement services (arcades)
  - 74 j. Social service center
  - 75 k. Halfway house
  - 76 l. Substance abuse rehabilitation center
  - 77 m. Convenience stores with fuel pump

- 78 n. Carwash
  - 79 o. Auto-service/repair
  - 80 p. Drive-through facility
- 81 2. Total project non-residential square footage may not exceed 20,000 sf and  
82 residential density may not exceed 220 dwelling units.
  - 83 3. A minimum of 10% of the residential dwelling units developed must be  
84 Workforce Housing Units. Workforce Housing Units means units that are  
85 affordably priced for households earning between 80% and 120% of the  
86 Gainesville Metropolitan Statistical Area (MSA) Area Median Income (AMI), as  
87 established by the United States Department of Housing and Urban  
88 Development (HUD). Affordably priced means that no more than 30% of  
89 household income is spent on housing. These units must remain permanent  
90 Workforce Housing Units through a binding legal document approved as to form  
91 and legality by the City Attorney's Office and recorded in the Public Records of  
92 Alachua County, Florida, which ensures that the units will permanently (for the  
93 life of the development) remain Workforce Housing Units.
  - 94 4. Workforce Housing Units must be constructed such that all unit finishes are  
95 identical to market-rate units and locations within the structure are equally  
96 dispersed relative to market-rate units. In addition, occupants of Workforce  
97 Housing Units must have equal access to all amenities constructed on the  
98 property, relative to market-rate units.
  - 99 5. Maximum building height is four (4) stories by right, with up to six (6) stories  
100 with a bonus as may be provided pursuant to the City's Development Bonus  
101 System provided in the Land Development Code (Section 30-4.9), as may be  
102 amended from time to time.
  - 103 6. Buildings must be placed a minimum of 20 feet and a maximum of 25 feet from  
104 the curb along both NW 43<sup>rd</sup> Street and NW 23<sup>rd</sup> Avenue. Regarding building  
105 placement in relation to curbs, the minimum landscape is 5 feet; the minimum  
106 sidewalk is 10 feet; the minimum building frontage is 5 feet.
  - 107 7. The exterior building design must be consistent with the building elevations  
108 adopted with the Planned Development (PD) zoning ordinance. During  
109 development plan review, the owner/developer shall submit a list of building  
110 materials for review, subject to approval by the City Manager or designee, to  
111 ensure that development within the PD is consistent with the elevations.
  - 112 8. The buildings must be designed and placed so as to minimize tree removal,  
113 where practicable, and to maximize public safety. Tree removal must be done  
114 under consultation with the City's Arborist or equivalent position.
  - 115 9. Required street tree plantings may be located anywhere within the streetscape  
116 (between the building façade and the back of curb) to meet utility and structural

- 117 separation requirements. Landscape materials and vegetation must have a  
118 terraced-like effect and be regularly maintained in attractive condition.
- 119 10. All uses, accessory uses, and associated activities may not adversely impact  
120 adjacent residential neighborhoods with respect to noise, odors, and lighting.
- 121 11. No outdoor cleaning, construction, deliveries, outdoor vacuuming, or similar  
122 activities with the potential to present a noise nuisance are allowed between  
123 10:00pm and 6:00am.
- 124 12. Restaurants may not be located along the building face closest to the  
125 Conservation Easement to the south facing NW 20<sup>th</sup> Place. Restaurants may not  
126 operate within 210 feet of the southernmost access point's curb cut, extending  
127 from NW 43<sup>rd</sup> Street 260 feet west towards NW 46<sup>th</sup> Street.
- 128 13. Garbage collection, recycling, and other utility areas must be within fully  
129 screened enclosures a minimum height of seven (7) feet on three (3) sides and  
130 constructed of wood, brick, or decorative masonry materials with a roof and a  
131 gate or door on the fourth side. Recycling collection may occur behind a wall,  
132 where applicable. A landscape planting strip a minimum of three (3) feet in  
133 width must be located on exposed, non-gated sides of such a facility.
- 134 14. There is a maximum of three (3) access points to the development: two (2) on  
135 NW 43<sup>rd</sup> Street and one (1) on NW 23<sup>rd</sup> Avenue.
- 136 15. The southern access road may extend thirty-six (36) feet south into what was  
137 conservation zoning at the time of this property's PD rezoning, and will have a  
138 linear profile of fifty-nine (59) feet for a total of 1,683 square feet. An area  
139 extending ten (10) feet north of the southern access road with a linear profile of  
140 106 feet for a total of 2,328 square feet must be included in the Conservation  
141 Easement as required herein.
- 142 16. No offsite parking is allowed. There is no minimum parking requirement. A five  
143 (5) foot wide landscape buffer is required between vehicular use areas and the  
144 west property boundary.
- 145 17. The owner/developer shall provide crosswalks where necessary and  
146 appropriate, as approved by the applicable jurisdiction. Crosswalks must be  
147 designed for safety and efficiency as determined by the City's Traffic Engineering  
148 Department, and must be distinguished by lighting, grade, texturing, or paint.
- 149 18. The owner/developer shall be responsible for traffic mitigation measures if the  
150 City determines that adjacent residential neighborhoods are adversely impacted  
151 by traffic from the development. Traffic mitigation measures, as may be  
152 determined and required by the City, may include the owner/developer  
153 providing, at its sole cost and expense, traffic studies by a professional licensed  
154 engineer, registered in Florida, reconfiguration of driveways, roadways,  
155 intersections, traffic calming, pinch points, signage (including potentially 25 mph  
156 signage along NW 20<sup>th</sup> Place, NW 46<sup>th</sup> Street, and east/west streets west of NW

157 46<sup>th</sup> Street), speed tables, and other reasonable measures. The  
158 owner/developer must conduct a Traffic Impact Analysis and assess impacts on  
159 surrounding properties within 12 months after the City's issuance of Certificates  
160 of Occupancy for the development.

161 19. The owner/developer shall fund at its full cost and expense any operational and  
162 safety modification(s) to the intersection of NW 23<sup>rd</sup> Avenue and NW 46<sup>th</sup> Street,  
163 as well as along NW 23<sup>rd</sup> Avenue and NW 46<sup>th</sup> Street, which are deemed  
164 necessary by the City or County in conjunction with the final development plan.  
165 Improvements may include, but are not limited to, limiting left turning  
166 movements during certain hours to enhance the safety of applicable school bus  
167 stops, turn lane modifications, signage retiming, median extensions, intersection  
168 striping, and Radar Flashing Beacons (RFBs).

169 20. Sidewalks along NW 43<sup>rd</sup> Street and NW 23<sup>rd</sup> Avenue must include landscaping  
170 between the sidewalk and the streets to enhance the safety of pedestrians.

171 21. Parking lots must be screened with plantings, fencing, hedging, or walls erected  
172 or maintained at least three (3) feet in height.

173 22. Parking lot layout, landscaping, buffering, and screening must avoid spill-over  
174 light onto adjacent properties and residential areas.

175 23. Walls and fences must be architecturally compatible with the style, materials,  
176 and color of buildings within the development. Fences may not be more than  
177 four (4) feet in height when abutting a public right-of-way.

178 24. Highway-style guardrail, chain-link fencing, barbed wire, or razor wire are  
179 prohibited, unless required by Gainesville Regional Utilities in order to ensure  
180 protection around transformers, backflow preventers, or mechanical elements.

181 25. Landscaping must consist of multiple plant heights, density, and plant species  
182 including shade trees, understory trees, large shrubs, small shrubs,  
183 groundcovers, and seasonal cover. Preference must be given to native and  
184 drought-tolerant species.

185 26. A ten (10) foot tall modular privacy wall must be constructed along the  
186 Conservation Easement's entire southern boundary. This barrier must also  
187 include landscape buffers and be maintained by the owner/developer.

188 27. The stormwater management facility must be designed so that there is not an  
189 increase in the post-development rate and volume of run-off for the 25-year  
190 critical duration storm event in the post-development conditions.

191 28. The owner/developer shall provide, at the time of development plan approval, a  
192 Conservation Easement approved as to form and legality by the City Attorney's  
193 Office and recorded in the Public Records of Alachua County, Florida, to the  
194 benefit of the City of Gainesville for the area under conservation zoning at the  
195 time of the development's PD rezoning, as modified herein. The Conservation  
196 Easement must provide that the City of Gainesville may develop and maintain a

197 public park in the Conservation Easement area. The Conservation Easement  
198 must also provide that no structures may be located within the easement area,  
199 with the exception of stormwater management facilities and accompanying  
200 infrastructure, residential privacy walls, public utility infrastructure related to  
201 the development, public park amenities, and up to five (5) public parking spaces.

202

203 **SECTION 3.** The property described in Section 1 of this ordinance has an underlying land use  
204 category of Office (O) and Conservation (CON). This underlying land use category is neither  
205 abandoned nor repealed, but is inapplicable as long as a Planned Development District (PD)  
206 zoning ordinance implementing this PUD land use category is adopted by the City Commission  
207 within 18 months of the effective date of this plan amendment as provided in this ordinance. If  
208 the aforesaid time period expires without the adoption of an implementing PD zoning  
209 ordinance, this ordinance will be void and have no further force and effect and the City may  
210 amend the Future Land Use Map accordingly.

211 **SECTION 4.** The City Manager or designee is authorized and directed to make the necessary  
212 changes to maps and other data in the City of Gainesville Comprehensive Plan in order to  
213 comply with this ordinance.

214 **SECTION 5.** If any word, phrase, clause, paragraph, section, or provision of this ordinance or  
215 the application hereof to any person or circumstance is held invalid or unconstitutional, such  
216 finding will not affect the other provisions or applications of this ordinance that can be given  
217 effect without the invalid or unconstitutional provision or application, and to this end the  
218 provisions of this ordinance are declared severable.

219 **SECTION 6.** All ordinances or parts of ordinances in conflict herewith are to the extent of such  
220 conflict hereby repealed on the effective date of this amendment to the Comprehensive Plan.



221 **SECTION 7.** This ordinance will become effective immediately upon adoption; however, the  
222 effective date of this amendment to the City of Gainesville Comprehensive Plan, if not timely  
223 challenged, will be 31 days after adoption. If challenged within 30 days after adoption, this  
224 amendment will become effective on the date the state land planning agency or the  
225 Administration Commission issues a final order determining the amendment to be in  
226 compliance with Chapter 163, Florida Statutes. No development orders, development permits,  
227 or land uses dependent on this Comprehensive Plan amendment may be issued or commenced  
228 before this amendment has become effective.

229

230 **PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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232

233

234

235

236 Attest:

237

238

239

240 \_\_\_\_\_  
OMICHELE D. GAINEY

241 CITY CLERK

242

243

\_\_\_\_\_  
LAUREN POE  
MAYOR

Approved as to form and legality:

\_\_\_\_\_  
NICOLLE M. SHALLEY  
CITY ATTORNEY

Exhibit A to Ordinance 200882

A TRACT OF LAND SITUATED IN THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 9 SOUTH, RANGE 19 EAST, ALACHUA COUNTY, FLORIDA, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHEAST CORNER OF SECTION 34, TOWNSHIP 9 SOUTH, RANGE 19 EAST AND RUN NORTH 89 DEGREES 56 MINUTES WEST ALONG THE NORTH LINE OF SAID SECTION 34, 33.0 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF NORTHWEST 43RD STREET AND THE POINT OF BEGINNING; THENCE RUN NORTH 89 DEGREES 56 MINUTES WEST ALONG THE NORTH LINE OF SAID SECTION 34, 256.0 FEET, THENCE RUN SOUTH 01 DEGREES 35 MINUTES 42 SECOND WEST 627.0 FEET; THENCE RUN NORTH 85 DEGREES 22 MINUTES 02 SECOND WEST 339.0 FEET; THENCE RUN SOUTH 01 DEGREES 24 MINUTES EAST 300.0 FEET; THENCE RUN SOUTH 89 DEGREES 54 MINUTES 16 SECOND EAST, 600.08 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF NORTHWEST 43RD STREET, SAID POINT BEING NORTH 89 DEGREES 54 MINUTES 16 SECONDS WEST, 33.0 FEET FROM THE EAST LINE OF SECTION 34; THENCE RUN NORTH 00 DEGREES 15 MINUTES EAST ALONG THE WESTERLY RIGHT-OF-WAY LINE OF NORTHWEST 43RD STREET AND PARALLEL TO THE EAST LINE OF SECTION 34, 900.0 FEET TO THE POINT OF BEGINNING.

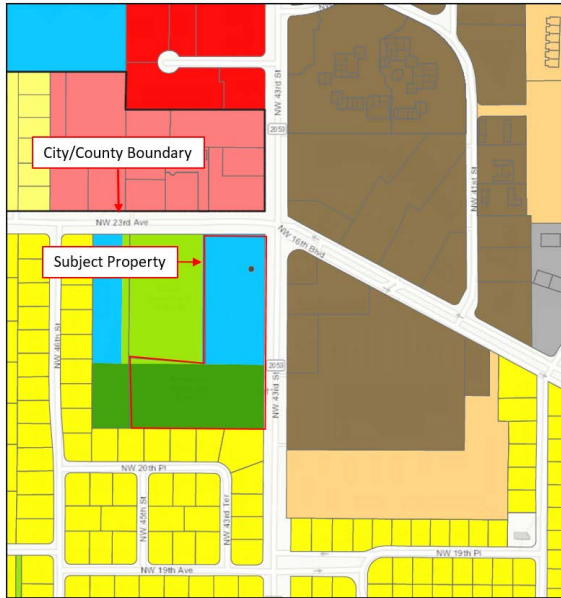
LESS THE NORTH 50 FEET THEREOF AS PER THE DEED RECORDED IN O.R. BOOK 140, PAGE 230 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA.

LESS THE EAST 17 FEET THEREOF AS PER THE DEED RECORDED IN O.R. BOOK 880, PAGE 610 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA.

# Exhibit B to Ordinance 200882

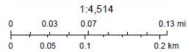
## Existing Land Use

PB-20-141 LUC



2/18/2021, 3:12:56 PM

- Gainesville City Limits
- Parcels
- City of Gainesville Land Use**
- C: Commercial
- CON: Conservation
- MUM: Moved-Use Medium
- O: Office
- PF: Public and Institutional Facilities
- PUD: Planned Use District
- RM: Residential Medium
- SF: Single Family
- Alachua County Land Use
- Commercial



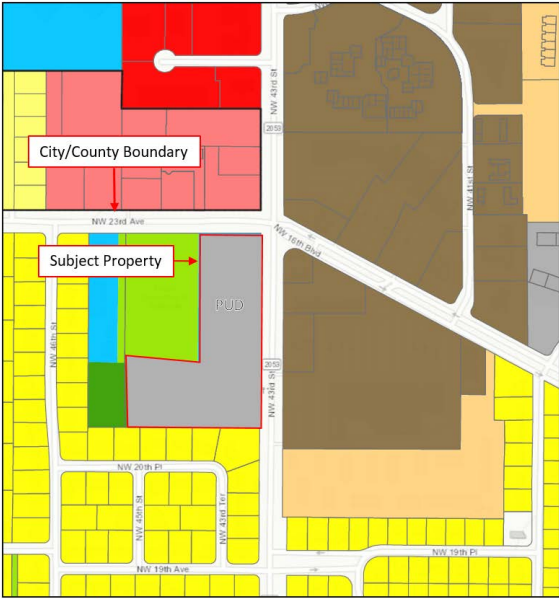
Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, Swisstopo, SRI, Swisstopo, IGN, Canada, Esri, Swisstopo, Japan (METI), Esri, China (Hong Kong), Swisstopo, IGN, Canada, Esri, Swisstopo, and the GIS User Community

Department of Sustainable Development  
County of Alachua, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA (1) 18th Engineering and Applied Sciences, etc.

# Exhibit B to Ordinance 200882

## Proposed Land Use

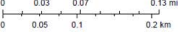
PB-20-141 LUC



2/18/2021, 3:12:56 PM

1:4,514

- Gainesville City Limits
- Parcels
- City of Gainesville Land Use**
  - O: Office
  - PF: Public and Institutional Facilities
  - PUD: Planned Use District
  - C: Commercial
  - RM: Residential Medium
  - SF: Single Family
  - CON: Conservation
  - MUM: Moved-Use Medium
  - Commercial
- Alachua County Land Use**
  - Commercial



Source: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, Swirex, INS, IGN, Swisstopo, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), Swisstopo, IGN, Esri, Swisstopo, and the GIS User Community

Department of Sustainable Development  
 County of Alachua, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA (1) GIS Engineering and Applied Sciences, et.