

CITY OF GAINESVILLE
Office of the City Attorney

980859
MEMORANDUM

Box No. 46
334-5011 / Fax 334-2229

TO: Mayor and City Commission

DATE: December 10, 1998
CITY ATTORNEY

FROM: Marion J. Radson, City Attorney

FIRST READING

SUBJECT: Ordinance No. 0-99-11

An Ordinance of the City of Gainesville, Florida, annexing a portion of the City of Gainesville Reserve Area Pursuant to Chapter 90-496, as amended by Chapter 91-382 and Chapter 93-347, Special Acts, Laws of Florida, known as the Alachua County Boundary Adjustment Act; making certain findings; including within the corporate limits of the City of Gainesville, Florida, that certain compact and contiguous area generally bounded on the West by Morningside Nature Center and the Gainesville city limits, on the North by the existing Gainesville City Limits (N.E. 39th Avenue), on the East by a line extending directly south from NE 39th Avenue to Lakeshore Drive, and on the South by Hawthorne Road and Lakeshore Drive; providing for inclusion of the area in Appendix I of the City Charter; providing for a referendum election; providing directions to the Clerk of the Commission; providing ballot language; providing for land use plan and zoning regulations; providing for persons engaged in any occupation, business, trade or profession; providing a severability clause; and providing effective dates.

Recommendation: The City Commission adopt the proposed ordinance.

The adoption of an annexation ordinance is the final stage in the annexation process under the provisions of the Alachua County Boundary Adjustment Act. On November 9, 1998 and November 23, 1998, the City Commission held advertised public hearings and adopted the Urban Services Report as mandated by the Boundary Adjustment Act.

ANNEXATION ORDINANCE

The annexation ordinance proposes to annex a contiguous, compact, unincorporated portion of the reserve area. The Boundary Adjustment Act requires the ordinance to be adopted as a nonemergency ordinance and to include one reasonably compact area. The ordinance will be submitted to a vote of the registered electors for their approval on Tuesday, April 27, 1999.

In the Ordinance the City Commission makes certain findings of fact related to the area proposed for annexation. The area must meet certain standards as required by the Boundary Adjustment Act. In this regard, your attention is drawn to Section 1 of this Ordinance and the

presentation by the City Manager. The annexation is effective on September 1, 1999 unless there is a tie vote or majority vote against the annexation.

Sections 7 and 8 of the Ordinance relate to special matters which may be of interest to the owners and residents and those persons engaged in any business or occupation. The Alachua County land use plan and zoning or subdivision regulations will remain in effect until the City adopts a comprehensive plan amendment that includes the annexed area. Those persons engaged in any occupation, business, trade or profession in the area proposed for annexation will have the right to continue their occupations, businesses, trades or professions and shall obtain an occupational license from the City of Gainesville for the term commencing on October 1, 1999. Those persons engaged in the construction industry within the annexation area will be required to register with the City on or before 4:00 p.m. September 1, 1999 in order to maintain their certificate of competency issued by Alachua County.

Prepared and
Submitted by:


Marion J. Radson
City Attorney

MJR/afm

Attachment

ORDINANCE NO. _____

0-99-11

An Ordinance of the City of Gainesville, Florida, annexing a portion of the City of Gainesville Reserve Area Pursuant to Chapter 90-496, as amended by Chapter 91-382 and Chapter 93-347, Special Acts, Laws of Florida, known as the Alachua County Boundary Adjustment Act; making certain findings; including within the corporate limits of the City of Gainesville, Florida, that certain compact and contiguous area generally bounded on the West by Morningside Nature Center and the Gainesville city limits, on the North by the existing Gainesville City Limits (N.E. 39th Avenue), on the East by a line extending directly south from NE 39th Avenue to Lakeshore Drive, and on the South by Hawthorne Road and Lakeshore Drive; providing for inclusion of the area in Appendix I of the City Charter; providing for a referendum election; providing directions to the Clerk of the Commission; providing ballot language; providing for land use plan and zoning regulations; providing for persons engaged in any occupation, business, trade or profession; providing a severability clause; and providing effective dates.

WHEREAS, Chapter 90-496, Special Acts, Laws of Florida, as amended by Chapter 91-382 and Chapter 93-347, Special Acts, Laws of Florida, created the "Alachua County Boundary Adjustment Act" (hereinafter collectively referred to as "the Act") which sets forth procedures for the annexation of contiguous, compact, unincorporated territory within a municipality's reserve area; and

WHEREAS, on January 13, 1998, the Board of County Commissioners of Alachua County designated the Reserve Area for the City of Gainesville pursuant to the Act; and

WHEREAS, on November 23, 1998, the City Commission of the City of Gainesville adopted Ordinance No. 980689, which adopted the Urban Services Report setting forth the plans to provide urban

1 services to that portion of the Reserve Area proposed to be
2 annexed in accordance with the procedures provided in the Act; and

3 **WHEREAS**, a copy of the Urban Services Report was filed with
4 the Alachua County Board of County Commissioners; and

5 **WHEREAS**, the City of Gainesville desires to annex a certain
6 portion of its Reserve Area which is compact and contiguous to the
7 present corporate limits of the City; and

8 **WHEREAS**, pursuant to law, at least ten days notice has been
9 given once by publication in a newspaper of general circulation
10 notifying the public of this proposed Ordinance and of Public
11 Hearings to be held in the City Commission meeting room, First
12 Floor, City Hall, in the City of Gainesville; and

13 **WHEREAS**, Public Hearings were held pursuant to the published
14 notice described above at which hearings the parties in interest
15 and all others had an opportunity to be and were, in fact, heard.

16 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE,**
17 **FLORIDA:**

18 **Section 1.** The City Commission finds that the Area described in
19 Section 2 of this Ordinance (hereinafter referred to as the
20 "Area") is reasonably compact and contiguous to the present
21 corporate limits of the City of Gainesville, and that no part of
22 the Area is within the boundary of another municipality or county.

23 The City Commission finds the Area to be within its Reserve Area
24 and the annexation does not create an enclave. The City

1 Commission finds that part or all of the Area is developed for
2 urban purposes because it is developed so at least 60% of the
3 total number of lots and tracts in the area at the time of
4 annexation are used for urban purposes, and it is subdivided into
5 lots and tracts so that at least 60% of the total acreage, not
6 counting the acreage used at the time of annexation for
7 nonresidential urban purposes, consists of lots and tracts 5 acres
8 or less in size.

9 **Section 2.** The following described Area is annexed and
10 incorporated within the corporate limits of the City of
11 Gainesville, Florida:

12 See Legal Description attached hereto as
13 Exhibit "A", and made a part hereof as if set
14 forth in full.
15

16 **Section 3.** Subject to the provisions of Section 4 of this
17 Ordinance, the corporate limits of the City of Gainesville,
18 Florida, as set forth in Article 1, Charter Laws of the City of
19 Gainesville, are amended and revised to include the Area described
20 in Section 2 within the corporate limits of the City of
21 Gainesville, Florida.

22 **Section 4.** Pursuant to Section 8 of the Act, this Ordinance
23 shall be submitted to a vote of the registered electors of the
24 Area described in Section 2 of this Ordinance at a special
25 election called for the purpose of holding the referendum. The
26 referendum election shall be held on Tuesday, April 27, 1999. The
27 referendum shall be conducted by the Alachua County Supervisor of

1 Elections ("Supervisor") in accordance with the provisions of the
2 Act and Chapter 9, Gainesville Code of Ordinances, as applicable.
3 The Supervisor is requested and authorized to conduct a referendum
4 election in accordance with the provisions of the Florida
5 Statutes. The City Manager is authorized and directed to pay all
6 lawful expenses associated with the election.

7 **Section 5.** The Clerk of the Commission is authorized to publish
8 notice of the referendum on annexation as prescribed by law.

9 **Section 6.** Pursuant to Section 8 of the Act, the language to
10 appear on the ballot of the referendum election called in Section
11 4 shall be:

12 "For annexation of property described in
13 Ordinance Number _____ of the City of
14 Gainesville"

15
16 "Against annexation of property described in
17 Ordinance Number _____ of the City of
18 Gainesville"
19

20 **Section 7.** In accordance with Section 171.062, Florida
21 Statutes, the Alachua County land use plan and zoning or
22 subdivision regulations shall remain in full force and effect in
23 the Area described in Section 2 of this Ordinance until the City
24 adopts a comprehensive plan amendment that includes the annexed
25 area. During the interim period, the City may rezone properties
26 in the annexed area to an Alachua County Zoning
27 classification/category that conforms with the Alachua County
28 Comprehensive Plan in accordance with Chapter 163, F.S.

1 **Section 8.** (a) Except as provided in subsections (b) and (c)

2 below, all persons who are lawfully engaged in any occupation,
3 business, trade or profession within the area described in Section
4 2 of this Ordinance as of September 1, 1999, shall have the right
5 to continue such occupation, business, trade or profession.

6 (b) Except as provided in subsection (c) below,
7 all persons who are lawfully engaged in any construction trade,
8 occupation or business within the Area described in Section 2 of
9 this Ordinance as of September 1, 1999, and who possess a valid
10 certificate of competency issued by Alachua County shall have the
11 right to continue the construction trade, occupation, or business
12 within the entire corporate limits of the City of Gainesville,
13 including the Area described in Section 2 of this Ordinance,
14 subject to the terms, conditions and limitations imposed on the
15 certificate by Alachua County, and provided such persons register
16 the certificate with the Building Inspections Department of the
17 City of Gainesville and the Department of Professional Regulation
18 of the State of Florida on or before 4:00 p.m. on September 1,
19 1999.

20 (c) All persons lawfully engaged in any
21 occupation, business, trade or profession within the Area
22 described in Section 2 of this Ordinance on or after October 1,
23 1999, shall obtain an occupational license from the City of
24 Gainesville for the term commencing on October 1, 1999, which
25 license shall be issued upon payment of the appropriate fee in

1 accordance with the Gainesville Code of Ordinances in effect on
2 October 1, 1999.

3 **Section 9.** If any portion of this Ordinance is declared by a
4 court of competent jurisdiction to be invalid or unenforceable,
5 such declaration shall not be deemed to affect the remaining
6 portions of this Ordinance.

7 **Section 10.** The Clerk of the Commission is directed to submit a
8 certified copy of this Ordinance to: 1) the Executive Office of
9 the Governor; 2) the Florida Department of State; and 3) the Clerk
10 of the Circuit Court of the Eighth Judicial Circuit in and for
11 Alachua County, Florida.

12 **Section 11.** Sections 1, 4, 5, 6, 8, 9, 10 and 11 of this
13 Ordinance shall become effective immediately upon adoption.
14 Sections 2, 3, and 7 shall become effective at 12:01 a.m. on
15 Wednesday, September 1, 1999, unless there is a tie vote or
16 majority vote against the annexation at the special election
17 called in Section 4 of this Ordinance.

18 **PASSED AND ADOPTED** this _____ day of _____,
19 1998.

20 _____
21 MAYOR
22

23 ATTEST:

24 Approved as to form and legality
25
26

27 _____
28 KURT LANNON,
29 CLERK OF THE COMMISSION
30
31

MARION J. RADSON,
CITY ATTORNEY

1 This Ordinance passed on first reading this ____ day of
2 _____, 1998.
3
4 This Ordinance passed on second reading this ____ day of
5 _____, 1998.
6
7 MJR/afm
8 11/10/98
9
10 Annex Ref. Ord. (East)

— EXHIBIT "A" —

A tract of land situated in Sections 35 & 36, Township 9 South, Range 20 East, and Sections 1, 2, 11, 12, & 13 Township 10 South, Range 20 East, Alachua County, Florida, and being more particularly described as follows:

Begin at the southwest corner of Section 2, Township 10 South, Range 20 East; thence east along the south line of said Section 2, a distance of 1591 feet, more or less; thence N 03° 32' 38" W, a distance of 688 feet, more or less, to the centerline of a drainage easement; thence run along the centerline of said drainage easement with the following courses: N 03° 32' 38" W, a distance of 625.00 feet; N 15° 50' 52" E, a distance of 602.00 feet; N 33° 25' 53" W, a distance of 168.00 feet; N 15° 48, 23" W, a distance of 535.68 feet; N 00° 59' 13"W, a distance of 59.32 feet to the south right of way line of State Road No. 26 (University Avenue); thence east along said south right of way line of State Road No. 26 to the east line of said Section 2; thence north along said east line of Section 2 and the east line of Section 35, Township 9 South, Range 20 East to the northeast corner of the southeast quarter of the southeast quarter of said Section 35; thence west along the north line of the south half of the south half of said Section 35 to the northwest corner of the southwest quarter of the southwest quarter of said Section 35; thence north along the west line of said Section 35 to the northwest corner of said Section 35; thence east along the north line of said Section 35 and the north line of Section 36, Township 9 South, Range 20 East to the northeast

corner of said Section 36; thence south along the east line of said Section 36 and the east lines of Sections 1, 12, and 13, Township 10 South, Range 20 East to its intersection with the northerly right of way line of County Road No. 329B (Lake Shore Drive); thence southwesterly along said northerly right of way line of County Road No. 329B and a southwesterly extension of said northerly right of way line to its intersection with the southerly right of way line of State Road No. 20 (Hawthorne Road); thence northwesterly along said southerly right of way line of State Road No. 20, to the west line of Section 11, Township 10 South, Range 20 East; thence north along the west line of said Section 11 to the northwest corner of said Section 11, also being the southwest corner of Section 2, Township 10 South, Range 20 East and the Point of Beginning.

