

MEMORANDUM

Office of the City Attorney

Box 46

Phone: 334-5011/Fax 334-2229

TO: Mayor and City Commission

DATE: November 14, 2005

FROM: City Attorney

CITY ATTORNEY
SECOND READING

SUBJECT: Ordinance No. 0-05-42, Petition 16LUC-05PB

An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Map; by changing the land use category of certain properties 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 "Single-Family (up to 8 units per acre)"; consisting of approximately 34 acres; located at the south side of Southwest 24th Avenue, west of I-75 and east of Tower Road; providing a severability clause; providing a repealing clause; and providing an effective date.

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

STAFF REPORT

This petition is related to zoning petition 17ZON-05 PB. The purpose of this petition is to apply City of Gainesville land use categories onto land that was annexed into the City in 2004. Land use districts are recommended that match those of the existing Alachua County districts or that are felt to be the most appropriate for the property based upon location, surrounding development and other factors. The county land use designation of each property will remain in effect until this proposed amendment has been adopted.

The annexed area includes 2 parcels that total approximately 34 acres. The Portofino Cluster Development is a subdivision of single-family detached houses located west of Interstate 75 on Southwest 24th Avenue. The Alachua County land use designation for Portofino is Low Density Residential (1-4 units per acre) with a County zoning designation of R-1A (Single-family, low density). The requested large-scale land use amendment is from Low Density Residential to the City of Gainesville land use designation of SF (Single Family, up to 8 units per acre).

The recommended SF land use designation is similar in character to the Alachua County Low Density Residential land use. The density allowed is comparable, depending on the subsequent zoning category that is chosen. The property that lies generally to the east of the subject property was annexed into the City of Gainesville in 2001. The current land use for this property is CON (Conservation), while the existing zoning classification is CON (Conservation). North of the

subject property is land with Alachua County High Density Residential (greater than 14 to less than or equal to 24 dwelling units per acre) land use with R-2A (Multiple-family, medium-high density) zoning, and Low Density Residential land use with R-1A zoning. To the west is Alachua County Medium High Density (greater than 8 to less than or equal to 14 dwelling units per acre) and Medium Density (greater than 4 to less than or equal to 8 dwelling units per acre) land uses. The respective zoning districts are R-2A and PD (Planned development). South of the subject property is land with Alachua County Institutional land use and R-1A zoning, plus conservation land that is within City limits, with CON land use and zoning.

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

Public notice was published in the Gainesville Sun on March 1, 2005. Letters were mailed to surrounding property owners on March 2, 2005. The Plan Board held a public hearing March 17, 2005. Planning Division staff recommended that the Plan Board approve the petition. The Plan Board recommended that the City Commission approve Petition 16LUC-05 PB. Plan Board vote 5-0.

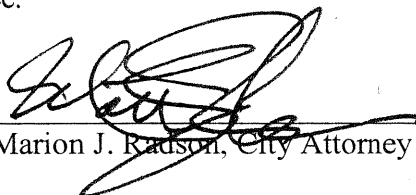
CITY ATTORNEY MEMORANDUM

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 days before the adoption hearing.

The State of Florida Department of Community Affairs issued a letter dated September 27, 2005, stating that this amendment need not be formally reviewed for consistency with Chapter 163, F.S. The Department also waived preparing an Objections, Recommendations and Comments Report. A copy of their letter is attached to this memorandum. Therefore, the City may now proceed with the final adoption of this ordinance.

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

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Passed on first reading by a vote of 6-0.



Rec'd
9/30/05
Comm. Devel. Dept

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
"Dedicated to making Florida a better place to call home"

THADDEUS L. COHEN, AIA
Secretary

JEB BUSH
Governor

September 27, 2005

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

Dear Mayor Hanrahan:

The Department has conducted a preliminary review of the City of Gainesville proposed comprehensive plan amendments received on August 23, 2005, DCA Reference No. 05-2.

The Department has determined that the proposed plan amendments need not be formally reviewed for consistency with Chapter 163, Florida Statutes (F.S.), and Rule 9J-5, Florida Administrative Code (F.A.C.). In addition, the Department has not received any recommendation for review from the North Florida Regional Planning Council or any affected person regarding the proposed amendment.

Therefore, the proposed amendment will not be reviewed and the Objections, Recommendations and Comments report will be waived. The local government may proceed to immediately adopt the amendment. After adoption, please submit three copies of the adopted amendment to the Department for our final compliance review, consistent with the requirements of Rule 9J-11.011, F.A.C.

The proposed comprehensive plan amendment includes the creation of two new mixed-use future land use categories; the amendment indicates the distribution of uses for these categories will be provided in the City's Land Development Code. Prior to adoption of this amendment the Department recommends the City include this information in the Comprehensive Plan.

Please be advised that Section 163.3184(8)(c), F.S., requires the Department to provide a courtesy information statement regarding the Department's Notice of Intent to citizens who furnish their names and addresses at the local government's plan amendment transmittal (proposed) or adoption hearings. In order to provide this courtesy information statement, local governments are required by law to furnish the names and addresses of the citizens requesting this information to the Department. **Please provide these required names and addresses to the Department when you transmit your adopted amendment package for compliance review.**

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100
Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781
Address: <http://www.dca.state.fl.us>

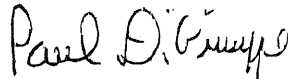
The Honorable Pegeen Hanrahan
September 27, 2005
Page 2

In the event no names, addresses are provided, please provide this information as well. For efficiency, we encourage that the information sheet be provided in electronic format.

Further, the Department's notice of intent to find a plan amendment in compliance shall be deemed to be a final order if no timely petition challenging the amendment is filed. Any affected person may file a petition with the agency within 21 days after the publication of the notice pursuant to Chapter 163.3184(9), F.S.

This letter should be made available for public inspection. If you have any further questions, please contact Ana Richmond at 850-922-1794.

Sincerely,



Paul DiGiuseppe
Regional Planning Administrator

PD/ar

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

D R A F T

April 19, 2005

ORDINANCE NO. _____
0-05-42

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4 **An ordinance amending the City of Gainesville 2000-2010**
5 **Comprehensive Plan, Future Land Use Map; by changing the**
6 **land use category of certain properties annexed into the City**
7 **from the Alachua County land use category of “LOW, Low**
8 **Density Residential” to the City of Gainesville land use category**
9 **of “Single-Family (up to 8 units per acre)”;** consisting of
10 **approximately 34 acres; located at the south side of Southwest**
11 **24th Avenue, west of I-75 and east of Tower Road; providing a**
12 **severability clause; providing a repealing clause; and providing**
13 **an effective date.**

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16 **WHEREAS,** publication of notice of a public hearing was given that the Future Land Use
17 Map be amended by changing the land use category of certain lands annexed within the City from
18 the Alachua County land use category of “LOW, Low Density Residential” to the City of
19 Gainesville land use category of “Single-Family (up to 8 units per acre)”;

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

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

D R A F T

April 19, 2005

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

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

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

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

10 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
11 **CITY OF GAINESVILLE, FLORIDA:**

12 **Section 1.** The Future Land Use Map of the City of Gainesville 2000-2010 Comprehensive
13 Plan is amended by changing the land use category of the following described properties from the
14 Alachua County land use category "LOW, Low Density Residential" to "Single-Family (up to 8
15 units per acre)":

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

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

D R A F T

April 19, 2005

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

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

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

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

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PEGEEN HANRAHAN, MAYOR

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

KURT LANNON,
CLERK OF THE COMMISSION

MARION J. RADSON, CITY ATTORNEY

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

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

D R A F T

April 19, 2005

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2 H:\Marion Radson\Planning\16luc.DOC

DESCRIPTION FOR PORTOFINO AS PER OFFICIAL RECORDS BOOK 2829, PAGE 1293, ET SEQ.

A PARCEL OF LAND SITUATED IN SECTION 9, TOWNSHIP 10 SOUTH, RANGE 19 EAST, ALACHUA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 9; THENCE SOUTH 88°57'51" WEST, ALONG THE SOUTH BOUNDARY OF SAID SECTION 9, A DISTANCE OF 2630.04 FEET TO THE INTERSECTION WITH THE EAST BOUNDARY OF A 15' X 15' EASEMENT DESCRIBED IN OFFICIAL RECORDS BOOK 1093, PAGE 740 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA; THENCE FOLLOWING THE BOUNDARY OF SAID EASEMENT NORTH 01°04'12" WEST, A DISTANCE OF 15.00 FEET; THENCE SOUTH 88°57'51" WEST, A DISTANCE OF 15.00 FEET TO THE INTERSECTION WITH THE BOUNDARY OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 1589, PAGES 201 THROUGH 202 OF SAID PUBLIC RECORDS; THENCE NORTH 01°04'12" WEST, ALONG THE BOUNDARY OF SAID LANDS, A DISTANCE OF 632.54 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE BOUNDARY OF SAID LANDS NORTH 01°04'12" WEST, A DISTANCE OF 87.46 FEET; THENCE CONTINUE ALONG THE BOUNDARY OF SAID LANDS NORTH 64°37'41" WEST, A DISTANCE OF 360.69 FEET TO A POINT OF INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD SW 30 (A.K.A. SW 24TH AVE) (RIGHT-OF-WAY WIDTH VARIES), SAID POINT BEING ON A NON-TANGENT CURVE TO THE LEFT, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 1959.86 FEET, AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE NORTH 27°49'20" EAST, 166.86 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID EASTERLY RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 04°52'46", AN ARC DISTANCE OF 166.91 FEET TO THE POINT OF TANGENCY; THENCE CONTINUE ALONG SAID EASTERLY RIGHT-OF-WAY LINE NORTH 25°23'02" EAST, A DISTANCE OF 1465.38 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1859.86 FEET, AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 42°26'55" EAST, 1091.56 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID EASTERLY RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 34°07'37", AN ARC DISTANCE OF 1107.86 FEET TO THE END OF SAID CURVE; THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE SOUTH 30°29'37" EAST, A DISTANCE OF 550.00 FEET TO A POINT ON A NON-TANGENT CURVE TO THE LEFT, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1309.86 FEET, AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 42°26'58" WEST, 768.80 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 34°07'46", AN ARC DISTANCE OF 780.29 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 25°23'02" WEST, A DISTANCE OF 1632.01 FEET; THENCE SOUTH 88°55'48" WEST, A DISTANCE OF 175.86 FEET TO THE POINT OF BEGINNING.

