

Legistar No. 080227

MEMORANDUM

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Office of the City Attorney

TO: MAYOR AND CITY COMMISSION

DATE: September 18, 2008
CONSENT


FROM: CITY ATTORNEY

SUBJECT: Final Administrative Order In the Matter of the Five Points Special Area Plan, filed by the City of Gainesville, Florida, a municipal corporation; Legistar No. 080227; Petition No. 89TCH-08PB

Recommendation: The City Commission authorize the Mayor and Clerk of the Commission to execute the Final Administrative Order.

The City Commission, at its meeting of September 2, 2008, announced its oral order in the matter of Petition No. 89TCH-08PB (Legistar No. 080227). At the conclusion of the hearing, the City Commission voted to approve the petition. City Commission rules require the decision to be embodied in a written order. Copies of the proposed order were submitted to the petitioner and the affected party.

Prepared and
Submitted by: _____


Marion J. Radson
City Attorney

MJR:sw

**IN THE MATTER OF FIVE POINTS SPECIAL AREA PLAN
CITY OF GAINESVILLE, PETITIONER
PETITION 89TCH-08PB**

ORDER

The City Commission of the City of Gainesville held a formal quasi-judicial hearing on September 2, 2008 on Petition No. 89TCH-08PB, City of Gainesville (the "Petition"). The Petition was filed by the City of Gainesville (the "Petitioner") for the purpose of amending the Five Points Special Area Plan by adding certain uses to the list of prohibited uses.

Upon filing of the appropriate forms with the Clerk of the Commission, the City Commission recognized the following as an affected party: Christian Prison Ministry, Inc., a Florida corporation.

STATEMENT OF THE PETITION

The Petition is to amend the Five Points Special Area Plan (Section 8 of Appendix A of the Land Development Code of the City of Gainesville) by adding the following uses to the list of prohibited uses: social services (MG-83), residences for destitute people, food distribution centers for the needy, dormitories, roominghouses, boardinghouses (GN-702), rehabilitation centers and social service homes or halfway houses.

PRELIMINARY STATEMENT

After hearing formal presentations, receiving evidence, and testimony from staff, the Petitioner, expert witnesses and affected parties, all of whom were duly sworn, argument of counsel, and receiving comments from the general public, the City Commission voted to approve the Petition.

FINDINGS OF FACT

Based upon the oral and documentary evidence presented at the formal quasi-judicial hearing and the entire record of this proceeding, the following findings of fact are made:

- 1) The Five Points Special Area is located within the Plan East Gainesville Urban Area and consists of approximately 34 acres of land as depicted on Exhibit A attached hereto;
- 2) The record before the Commission shows that:
 - (a) Plan East Gainesville was a joint City/County government planning initiative to stimulate and guide the physical and economic development of East Gainesville;
 - (b) The Five Points Special Area Plan was adopted by the City in 2005 and is codified as Section 8, Appendix A of the Land Development Code of the City of Gainesville;
 - (c) The Five Points Special Area Plan implements, in part, the recommendations in the Plan East Gainesville report;
 - (d) The Special Area Plan identifies the area that is intended to function as a neighborhood center for East Gainesville and sets forth regulations and urban design criteria to guide and accommodate the redevelopment of this neighborhood center;

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FIVE POINTS SPECIAL AREA PLAN
89TCH-08PB

- 3) The community vision for the Five Points Area is to create a vibrant, high quality, urban, mixed-use center with employment, retail shopping, restaurants and services located within walking distance of neighborhood residences; and
- 4) The uses proposed to be prohibited in the Petition are allowed, by right or by special use permit, in several zoning districts within the City and in close proximity to the Five Points Area.

CONCLUSIONS OF LAW

Based upon the oral and documentary evidence presented at the formal quasi-judicial hearing and the entire record of this proceeding, the following conclusions of law are made:

- 1) It is necessary to use zoning regulations to implement the vision and purpose articulated in Plan East Gainesville and the Five Points Special Area Plan;
- 2) The uses proposed to be prohibited are not consistent with the vision for and purpose of the Five Points Area as articulated in Plan East Gainesville and the Five Points Special Area Plan; and
- 3) A prohibition on the proposed uses as specified in the Petition would further encourage redevelopment that is consistent with Plan East Gainesville's vision for the Five Points Area.

ORDER

Based upon the foregoing findings of fact and conclusions of law, the City Commission at its September 2, 2008, quasi-judicial hearing approved Petition 89TCH-08PB, as recommended by City Staff, as more specifically set forth as follows:

Amend the Five Points Special Area Plan (Section 8 of Appendix A of the Land Development Code of the City of Gainesville) by adding the following uses to the list of prohibited uses: social services (MG-83), residences for destitute people, food distribution centers for the needy, dormitories, roominghouses, boardinghouses (GN-702), rehabilitation centers and social service homes or halfway houses.

Entered this _____ day of _____, 2008, nunc pro tunc, September 2, 2008.

Mayor

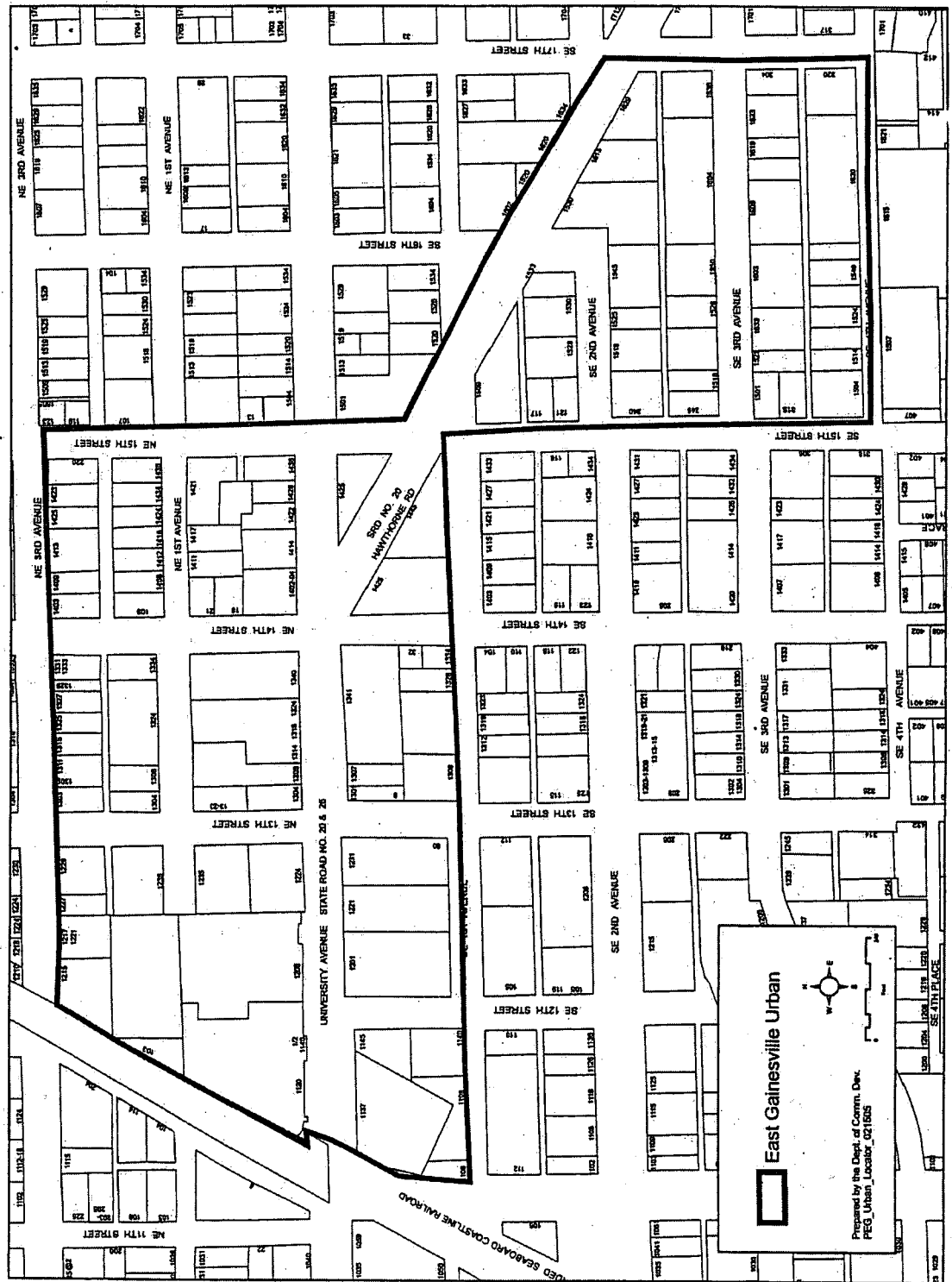
Attest:

Clerk of the Commission

Copies furnished to: John Wachtel, Neighborhood Planning, City of Gainesville (Petitioner)
Jennifer Springfield, attorney for Christian Prison Ministry, Inc. (Affected Party)

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Plan East Gainesville Urban Locator Map



(Ord. No. 040758, 8-9-05)

Supp. No. 23, 11-05

CD30:376.68.5

Exhibit A