



**City of Gainesville**  
**Department of Doing**  
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**DATE:** August 7, 2017

**TO:** Mayor Poe and members of the City Commission

**VIA:** Anthony Lyons, City Manager

**FROM:** Wendy Thomas, Director  
 Lila Stewart, Strategic Planning Manager

**SUBJECT:** Joint City/County Commission Meeting – Finley Woods Annexation

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**SUMMARY:** City and County Staff discussions have been valuable. Lack of agreement on conditions to move forward with Joint Planning Agreement, specifically dropping legal action associated with Finley Woods annexation, has resulted in the need for a joint commission meeting.

**RECOMMENDATION:** Move forward with Joint Planning Agreement, upon agreement to drop legal action associated with Finley Woods annexation.

**BACKGROUND:** The joint meeting of the City of Gainesville and Alachua County Commissions, on August 14, 2017, is a step in the state mandated process for challenging the annexation of the proposed Finley Woods development into the city of Gainesville. Alachua County is alleging the annexation does not meet the state criteria, specifically regarding the creation of an enclave. In meetings attended by all parties, including the property owner, the County has stated that this challenge, as well as other challenges, are motivated by the County's concern regarding the fiscal impact annexations will have on County transportation impact fees.

There is general agreement on a solution to the overall annexation issue. City and County staff agree the adoption of a Joint Planning Agreement (JPA) addressing future annexations, to include the collection and use of county transportation impact fees and city TMPA fees, would stop future challenges to annexation. Over the course of three conflict resolution meetings between City and County staff, a Settlement Agreement proposing immediate and timely work on a JPA as presented by the City was rejected, then a counter offer by the County was rejected. Gainesville requested the County drop the challenges to two annexations, as a demonstration of good faith, in pursuit of a JPA. City staff made this request based on the interest of the property owner in resolving the challenge. In return, Gainesville would stop annexing lands into the city as the JPA was drafted. The County stated they would not accept the proposed settlement agreement. As expressed during the

negotiations, it is important to the County to have leverage over Gainesville during the creation of the JPA; therefore, legal action associated with the Finley Woods annexation will either continue or may be held in abeyance.

There is precedence in Florida for JPAs to address such conflicts. The City of Venice and Sarasota County successfully negotiated a JPA to address annexation and transportation impacts, attached for your reference. In what had been a contentious conflict between two governmental entities, the involvement of elected officials and the use of a respected mediator resulted in an agreement that remains in effect today. Using this model, without holding property owners as leverage, would be the best model to move our community forward in a positive and productive manner to resolving this important issue.

The City continues to process and respond to voluntary annexation requests. At this time, we are actively processing one voluntary annexation and one neighborhood (80 homes) has met with both city and county staff while considering annexation. In addition, we have had meetings with two (2) property owners who are considering annexing into the city and discussions with property owners in the Finley Woods Phase I subdivision who are interested in annexing, but waiting on the outcome of the conflict resolution process.

Attached for your reference:

1. Example of Joint Planning Agreement,
2. Timeline for the Finley Woods annexation,
3. Map of Finley Woods Annexation,
4. Summary of the legal challenge,
5. City proposed Settlement Agreement, and
6. County proposed Settlement Agreement.

CONTRACT NO. 2011-037  
BCC APPROVED 10/13/10

**AMENDED AND RESTATED  
JOINT PLANNING AND  
INTERLOCAL SERVICE BOUNDARY AGREEMENT  
BETWEEN  
THE CITY OF VENICE AND  
SARASOTA COUNTY**

This Amended and Restated Joint Planning and Interlocal Service Boundary Agreement (the "Agreement") is made and entered into this 26 day of October, 2010, by and between the City of Venice, a municipal corporation organized and existing under the laws of the State of Florida (the "City") and Sarasota County, a charter county and political subdivision of the State of Florida (the "County").

WHEREAS, in January 2007, the City and the County entered into a Joint Planning and Interlocal Service Boundary Agreement; and

WHEREAS, in December 2008, the Joint Planning and Interlocal Service Boundary Agreement was amended by the City and the County; and

WHEREAS, the City and the County desire to amend and restate the Joint Planning and Interlocal Service Boundary Agreement to eliminate certain Potential Annexation Areas, update the maximum densities in the Potential Annexation Areas in a manner consistent with the City's EAR-based amendments to its comprehensive plan, limit the City's ability to annex in a manner that creates enclaves, and to require that annexed areas be compact; and

WHEREAS, the City possesses Municipal Home Rule Powers pursuant to Article VIII, Section 2(b), Florida Constitution. and Section 166.021, Florida Statutes; and

WHEREAS, the County possesses Home Rule powers as a Charter County pursuant to Article

VIII, Section 1(g), Florida Constitution and Section 125.01, Florida Statutes; and

WHEREAS, the Florida Interlocal Cooperation Act of 1969, Section 163.01, Florida Statutes, encourages and empowers local government to cooperate with one another on matters of mutual interest and advantage, and provides for interlocal agreements between local governments on matters such as annexation and joint planning; and

WHEREAS, the Municipal Annexation Or Contraction Act, Chapter 171, Part I, Florida Statutes, and the Interlocal Service Boundary Agreement Act, Chapter 171, Part II, Florida Statutes, recognizes the use of interlocal service boundary agreements and joint planning agreements as a means to coordinate future land use, public facilities and services, and protection of natural resources in advance of annexation; and

WHEREAS, the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, Florida Statutes, requires that counties and cities include in their respective planning efforts intergovernmental coordination and particularly, mechanisms for identifying and implementing joint, planning areas, especially for the purpose of annexation; and

WHEREAS, the State Comprehensive Plan requires local governments to direct development to those areas which have in place the land and water resources, fiscal abilities and service capacities to accommodate growth in an environmentally acceptable manner; and

WHEREAS, the State Comprehensive Plan requires local governments to protect the substantial investment in public facilities that already exist and to plan for and finance new facilities in a timely, orderly, and efficient manner; and

WHEREAS, the City and the County wish to identify lands that are logical candidates for future annexations, the appropriate land uses and infrastructure needs and provider for such lands, ensure protection of natural resources and to agree on certain procedures for the timely

review and processing of development proposals within those areas; and

WHEREAS, the City and the County wish to identify lands within the existing City limits which will be subject to certain procedures and substantive standards during the development review process undertaken by the City; and

WHEREAS, the City and the County wish to identify lands within the unincorporated area of the County which will be subject to certain procedures and substantive standards during the development review process undertaken by the County; and

WHEREAS, the extension of City and County facilities and services can only be provided in prioritized phases if the process and timing of annexation and development review processes for certain designated areas of the City and County are clearly identified and jointly agreed upon in advance of the City and County capital planning, commitment, and expenditure; and

WHEREAS, Subsection 163.3171(3), Florida Statutes, provides for the adoption of joint planning agreements to allow counties and municipalities to exercise jointly the powers granted under the Act; and

WHEREAS, the agreement of the County to waive its rights to contest future annexations within a defined geographic area, pursuant to the conditions provided herein, and refrain from proposing or promoting any Charter amendment that negates the terms and conditions of this Agreement is a material inducement to the City to enter into this Agreement; and

WHEREAS, the agreement of the City to undertake annexation and joint planning efforts in a manner that is coordinated with the County is a material inducement to the County to enter into this Agreement; and

WHEREAS, the City Council of the City, after consultation with its staff, has determined

that the lands included in the Joint Planning Area described herein may be necessary to reasonably accommodate urban growth projected in the City during the term of this Agreement; and

WHEREAS, the City and the County find that the benefits of intergovernmental communications and coordination will accrue to both Parties, as evidenced by numerous existing Interlocal Agreements; and

WHEREAS, the elected officials of the City and the County have met and negotiated in good faith to resolve issues relating to annexation and joint planning and wish to memorialize their understanding in this Agreement; and

WHEREAS, this Agreement is entered into pursuant to the authority of Article VIII of the Florida Constitution, the Sarasota County Home Rule Charter, the City of Venice Charter, and Chapters, 125, 163, 166 and 171, Florida Statutes (2009).

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the City and the County agree as follows:

1. Incorporation of Preamble. The Preamble above is true and correct and incorporated into this Agreement as if fully set forth herein.
2. Establishment of Joint Planning Area. To establish the means and process by which future annexations and planning activities will be accomplished, the City and the County (the "Parties") hereby establish a Joint Planning Area (JPA), depicted in Exhibit "A," attached hereto and incorporated herein by this reference. All areas specifically delineated, mapped and referenced in the legend on Exhibit A are within the JPA.
3. Limitation on Future Annexations by the City.

- A. The City will not annex any lands other than those designated as Potential Annexation Areas on Exhibit A hereto during the term of this Agreement. Potential Annexation Areas consist of land likely to be developed for urban purposes under the term of this Agreement and which are therefore appropriate for annexation by the City. Notwithstanding this provision, the County agrees that the City may annex enclaves, as defined in Chapter 171, Florida Statutes, in existence on the date of this Agreement.
  - B. The City and County agree that the City shall provide notice to the County within twenty (20) days of receipt of any petition to annex properties within the JPA and include a report confirming consistency of the City's planned service delivery with the terms of this Agreement.
- 4. County Consent to Annexations by the City. If the annexation ordinances of the City are adopted under the conditions set forth in this Agreement, the County will not challenge, administratively, judicially, or otherwise, any annexations by the City that annex lands within the Potential Annexation Areas unless the annexed property is not contiguous, as defined in Chapter 171, Florida Statutes, to a City boundary, not compact, or cannot be adequately and reasonably served by police and fire services, or is inconsistent with this Agreement.
- 5. Annexation of Lands Within the JPA: The City may annex lands within the JPA set forth in Exhibit A in accordance with this Agreement upon adoption of the comprehensive plan amendments required to implement this Agreement and upon the City's receipt of a petition for annexation from the persons who own the property proposed to be annexed and the property is contiguous, as defined in Chapter 171, Florida Statutes, to the

municipal boundaries of the city and the area to be annexed is compact. In addition, the City agrees that it will not create new or expanded enclaves within Potential Annexation Areas.

6. Land Use, Infrastructure and Environmental Agreements for Potential Annexation Areas.

- A. Process for Incorporating Potential Annexation Areas into City Comprehensive Plan. Future land uses are identified herein and agreed to by the City and County for each of the areas within the Potential Annexation Areas set forth on Exhibit A. These future land uses were examined during the City's comprehensive plan update pursuant to the Evaluation and Appraisal Report. During the process to update the comprehensive plan, the City and County agreed on future land use categories for the specific lands in each of the joint planning areas identified below as Potential Annexation Areas. The City adopted the future land uses as an overlay to its comprehensive plan. Specific policies addressing allocations of acreage, density, and intensity of development have been included for each future land use category set forth in Exhibit B. Once in effect, the overlay will serve to govern any future land use map amendments occurring after annexation. Prior to annexation, the County will not revise its future land uses to redesignate any Potential Annexation Area parcels to a use incompatible with the designations set forth in this Agreement or the overlay. The County is under no obligation to change the land use designations for any parcel designated as a Potential Annexation Area and in the event of a change in the land use will apply the land use category which most closely meets the requirements set forth in Paragraph B, below.



B. Agreements on parcels. The matrix set forth as Exhibit B and the following provisions are applicable to the land uses, water and sewer provider, timing of likely infrastructure availability, transportation improvements and environmental considerations of the areas within the JPA whether they are annexed by the City or are developed within the unincorporated area of the County:

- (1) Area 1 — Rustic Road Neighborhood: The land use adopted in the Venice Comprehensive Plan for Subarea 1 (area abutting I-75 and extending approximately 0.73 mile northward and approximately 0.60 mile eastward of the intersection of I-75 and Cow Pen Slough) is 5 to 9 units per acre, calculated on a gross area basis. The land use adopted for Subarea 2 (area abutting Knights Trail Road and extending approximately 0.75 mile westward of Knights Trail Road) is up to 5 units per acre. Up to 50% of the acreage in Area 1 will be allowable for nonresidential (retail, office space, industrial and manufacturing) uses. The total square footage of non-residential uses allowed in this area shall not exceed a floor area ratio (FAR) of 2.0. Development shall be served by City water and sewer. The Party with jurisdiction over the development application will require transportation improvements to the intersection of Knight's Trail and Rustic Lane to meet County standards and to be provided by the developer.
- (2) Area 2A: - Auburn Road to I-75 Neighborhood: The land use adopted in the Venice Comprehensive Plan for this area is a maximum of 3 units per acre, calculated on a gross acreage basis. Up to 10% of the acreage in Area 2 will be allowable for accessory nonresidential (retail, office, and commercial) uses.

The square footage of the accessory nonresidential uses allowed in this Area shall not exceed a 0.25 FAR. Development shall be served by City water and sewer.

- (3) Area 2B- 1-75 to Jacaranda Boulevard: The land use adopted in the Venice Comprehensive Plan for Subarea 1 (north of Ewing Drive) is a maximum of 9 units per acre, calculated on a gross acreage basis. The land use adopted for Subarea 2 (south of Ewing Drive and north of Curry Creek) is 13 units per acre, calculated on a gross acreage basis. The land use adopted for Subarea 3 (south of Curry Creek) is 18 units per acre, calculated on a gross acreage basis. Up to 50% of the acreage in this sector will be allowable for nonresidential (retail, office space, industrial and manufacturing) uses. The total square footage of nonresidential uses allowed in this Area shall not exceed a 2.0 FAR. Development shall be served by City water and County sewer. The Party with jurisdiction over the development application shall require that right of way be dedicated by the developer for improvements to Jacaranda Boulevard and be completed with appropriate contributions from the developer consistent with the standards in the County's land development regulations.

- (4) Area 3 — Border Road to Myakka River Neighborhood: The land use adopted in the Venice Comprehensive Plan for Subarea 1 (west of North Jackson Road) is a maximum of 5 units per acre, calculated on a gross area basis. The land use adopted for Subarea 2 (east of North Jackson Road) is a maximum of 3 units per acre, calculated on a gross area basis. Development shall be served by City

water and County sewer. The Party with jurisdiction over the development application shall require that transportation improvements including the extension of Jackson Road from Border Road to Laurel Road as a two-lane facility will be required to be provided by the developer consistent with the standards in the County's land development regulations. The City will support the acquisition of conservation interests in properties along the Myakka River, or where they are not acquired, require a Conservation Easement for annexed properties along the Myakka River.

- (5) Area 4 — South Venice Avenue Neighborhood: The land use adopted in the Venice Comprehensive Plan for this Area is a maximum of 7 units per acre, calculated on a gross acreage basis. Up to 33% of the acreage will be allowable for nonresidential (retail, office and commercial) uses. The square footage of nonresidential uses allowed in this Area shall not exceed a 1.5 FAR. Development shall be served by City water and sewer. Interconnections between City and County water and sewer facilities shall be evaluated. The Party with jurisdiction over the development application shall require necessary transportation improvements including a neighborhood roadway interconnection to Hatchett Creek Boulevard to be provided by the developer.
- (6) Area 5 — Laurel Road Mixed Use Neighborhood: The land use adopted in the Venice Comprehensive Plan for this Area is a maximum of 8 units per acre, calculated on a gross acreage basis. For Subarea 1 (north of the proposed connection between Laurel Road and the proposed Honore Avenue extension),

up to 33% nonresidential acreage shall be allowed.. For Subarea 2 (south of the proposed connection between Laurel Road and the proposed Honore Avenue extension), up to 50% nonresidential acreage shall be allowed. For Subarea 3 (south of Laurel Road), up to 100% nonresidential acreage is allowed. The square footage of nonresidential uses allowed for each subarea shall not exceed a 2.0 FAR. Development shall be served by County water and sewer. The Party with jurisdiction over the development application shall require that transportation improvements shall be consistent with the proposed Pinebrook/ Honore Road Extension alignment as depicted on the County thoroughfare plan and be constructed with appropriate contributions from the developer consistent with the County's land development regulations.

- (7) Area 6 — Pinebrook Road Neighborhood: The land use adopted in the Venice Comprehensive Plan for this Area is a maximum of 3 units per acre, calculated on a gross acreage basis. Nonresidential uses shall not be permitted in this Area. Development shall be served by City water and sewer. The Party with jurisdiction over the development application shall require dedication of right of way for future four-laning of Pinebrook Road if the City and County agree that such an improvement is necessary. The improvement shall be constructed, with appropriate contributions from the developer, consistent with the standards in the County land development regulations.
- (8) Area 7 — Auburn Road Neighborhood: The land use adopted in the Venice Comprehensive Plan for this Area is a maximum of 5 units per acre.

Nonresidential uses shall not be permitted in this Area. Development shall be served by City water and sewer.

- (9) Area 8 — Gulf Coast Boulevard Neighborhood: The maximum residential density adopted in the Venice Comprehensive Plan for this Area shall not exceed 3.5 units per acre, calculated on a gross acreage basis. Development shall be served by City water and sewer.

7. Intergovernmental Review and Coordination.

- A. Coordination of Developments of Extrajurisdictional Impacts. The City and County agree that the impacts of certain development, herein referred to as Developments of Extrajurisdictional Impacts, in close proximity to the municipal boundaries of the City, whether within the City limits or in the unincorporated area of the County, require close coordination between the Parties in order to assure the orderly and efficient provision of public facilities and services and compatibility of land uses.
- B. Developments of Extrajurisdictional Impact, defined. "Development of Extrajurisdictional Impact" shall have the following meaning: any development within the Joint Planning Area set forth on Exhibit A hereto that either results in the creation of more than-twenty-five (25) dwelling units or 25,000 square feet of non-residential building area or the consumption of five percent (5%) of the remaining, available capacity of an affected roadway.
- C. Coordination of County Planning Activity. The County will give the City Planning Director, or designee, written notice of the following matters or applications that relate to Developments of Extrajurisdictional Impacts, as defined above, located

within the unincorporated area of the County depicted on Exhibit A hereto:

- (1) Comprehensive Plan Amendments;
- (2) Rezoning; or
- (3) Special exceptions.

D. Development Proposals within the City's Jurisdiction. The City will give the County Planning Director, or designee, written notice of the following matters or applications that relate to Developments of Extrajurisdictional Impacts, as defined above, located within the municipal boundaries of the City depicted on Exhibit A hereto:

- (1) Comprehensive Plan Amendments;
- (2) Rezoning; or
- (3) Special exceptions.

E. Process for Coordination of Developments of Extrajurisdictional Impacts. The Parties will adhere to the following process in order to facilitate intergovernmental coordination regarding Developments of Extrajurisdictional Impact:

- (1) Not later than thirty (30) days after receiving the application, and in no event less than thirty (30) days prior to any public hearing on a proposed Development of Extrajurisdictional Impact, the Party with approval authority (the "Approving Party") will transmit the application packet for the proposed development, including all back-up material, to the other Party (the "Reviewing Party").
  - a. The Approving Party will transmit any substantive changes to the application packet made during the review process to the Reviewing

Party within five (5) business days of its receipt by the Approving Party.

- b. The Reviewing Party will transmit comments within twenty (20) working days of receipt of the item(s) listed in subparagraphs C. 1, 2, and 3, and D. 1, 2, and 3, above. If the Reviewing Party does not respond in writing within twenty (20) working days, then it is deemed to have no recommended conditions for inclusion in the comprehensive plan amendment, rezoning, or special exception.
- c. The Parties agree to take reasonable steps to facilitate the review process set forth herein.

(2) Agreement to Incorporate Conditions.

- a. The City's recommendation to the City Planning Commission and City Council to approve, approve with conditions, or deny a proposed Development of Extrajurisdictional Impact will set forth all County-proposed stipulations that are based on adopted County standards, neighborhood and community plans, industry standards, or common agreement between the City and County.
- b. The County's recommendation to the County Planning Commission and County Commission to approve, approve with conditions, or deny a proposed Development of Extrajurisdictional Impact will set forth all City-proposed stipulations that are based on adopted City standards, neighborhood and community plans, industry standards, or common agreement between the City and

County.

F. Approval of Reviewing Party Not Required.

Notwithstanding the provisions set forth in Section 7. E. (2) hereof, unless otherwise specified herein in Paragraphs 6 and 10, the Parties will not construe any provision of this Agreement to require:

- (1) City approval of the County's planning activities or of Developments of Extrajurisdictional Impact within the unincorporated area of the County; or
- (2) County approval of the City's planning activities, or of Developments of Extrajurisdictional Impact within municipal boundaries of the City.

8. Areas of Infrastructure Coordination: Within the JPA as designated on Exhibit A hereto, the Parties agree to coordinate and cooperate with each other to ensure the efficient provision of infrastructure within these areas and will endeavor to achieve parity in the location of public facilities and services. The Parties will investigate possible system interconnections, co-location of facilities and joint financing and construction of regional infrastructure.

9. Alternative Dispute Resolution.

- A. The Parties agree to resolve any dispute related to the interpretation or performance of this Agreement in the manner described in this Section. Either Party may initiate the dispute resolution process by providing written notice to the other Party. Initiation of the dispute resolution process shall operate as a stay of the action which is the subject of the dispute.
- B. Notwithstanding the foregoing, in the event that either Party determines in its sole discretion and good faith that it is necessary to file a lawsuit or other formal challenge in order to meet a jurisdictional time deadline, to obtain a temporary



injunction, or otherwise to preserve a legal or equitable right, such lawsuit or challenge may be filed, but upon the filing and any other act necessary to preserve the legal or equitable right or to obtain the temporary injunction, the Parties shall thereafter promptly file a joint motion with the reviewing court or administrative law judge requesting that the case be abated in order to afford the Parties an opportunity to pursue the dispute resolution procedures set forth herein. If the abatement is granted, the Parties shall revert to and pursue the dispute resolution procedures set forth herein.

- C. After transmittal and receipt of a notice specifying the areas of disagreement, the Parties agree to meet at reasonable times and places, as mutually agreed upon, to discuss the issues.
- D. If discussions between the Parties fail to resolve the dispute within sixty (60) days of the notice describe in subparagraph A, above, the Parties shall appoint a mutually acceptable neutral third Party to act as a mediator. If the Parties are unable to agree upon a mediator, the City Shall request appointment of a mediator by the Chief Judge of the Circuit Court in and for Sarasota County, Florida. The mediation contemplated by this Section is intended to be an informal and non- adversarial process with the objective of helping the Parties reach a mutually acceptable and voluntary agreement. The decision-making shall rest solely with the Parties. The mediator shall assist the Parties in identifying issues, fostering joint problem-solving, and exploring settlement alternatives.
- E. If the Parties are unable to reach a mediated settlement within ninety (90) days of the mediator's appointment, either Party may terminate the settlement discussions

by written notice to the other Party.

- F. Either Party must initiate litigation or move to end the abatement specified in Paragraph B, above, within thirty (30) days of the notice terminating the settlement discussions or such action is barred. Resolution by failure to initiate litigation shall not be considered to be acceptance of the interpretation, position or performance of the other Party in any future dispute.
- G. The Parties agree that this dispute resolution procedure satisfies the requirements of Chapter 164, Florida Statutes.

10. Agreement on Additional Substantive Standards and Issues:

In addition to the matters set forth above, the Parties agree to the following additional substantive standards and issues:

- A. Each party agrees that as a part of its review of development applications within the Joint Planning Areas set forth in Exhibit A it will apply its own comprehensive plan policies, land development regulations and methodologies to assess the impacts on the public facilities for which it is financially responsible. In addition, the application will be provided to the other party which will conduct a concurrency review based on its comprehensive plan policies, land development regulations and methodologies to address impacts to public facilities which are its financial responsibility. Any concurrency approval will incorporate the results of both reviews.
- B. Right of way for roadways that are designated as future thoroughfares shall be dedicated to the City or the County or their respective designees, as applicable, and construction and maintenance responsibilities for the roadways will be assigned to development interests unless otherwise mutually agreed by the Parties.

- C. Any development authorized by the County within an enclave shall be conditioned upon a requirement that development shall connect to City utilities as they become available.
- D. The Parties will evaluate regional water supply sources, interconnections and joint storage facility locations.
- E. The Parties will support protection of the Myakka River corridor through the implementation of the Myakka Wild and Scenic River Management Plan and will prohibit new or increased access of motorized watercraft to the River within the Joint Planning Areas set forth in Exhibit A. Buffers for new developments with the Myakka River Protection Zone shall be a minimum of two hundred twenty (220) feet.
- F. The City commits to continue to participate in development and implementation of the Habitat Conservation Plan with the County.
- G. The Parties agree that the County's Manatee Protection Plan requirements shall apply to the areas of the Myakka River located within the Joint Planning Areas set forth in Exhibit A.
- H. The City agrees to enforce any lawful conditions imposed by the County in conjunction with the issuance of land use and development permits within an annexation area unless and until such conditions are modified, changed and/or deleted through the City's comprehensive plan and land development regulations. The County will serve a consultative role to provide assistance in enforcement action if requested by the City.
- I. The City agrees to use the County land use compatibility principles during the review of each zoning petition for any parcel located within the Joint Planning

Areas set forth on Exhibit A and on properties within the City adjoining such areas.

Within the Coordination and Cooperation Areas set forth on Exhibit A, the County agrees not to revise its future land uses prior to confirmation of compatibility by the City. The land use compatibility reviews referenced above shall include an evaluation of land use density, intensity, character or type of use proposed, and an evaluation of site and architectural mitigation design techniques. Potential incompatibility shall be mitigated through techniques including, but not limited to: (i) providing open space, perimeter buffers, landscaping and berms; (ii) screening of sources of light, noise, mechanical equipment, refuse areas, delivery areas and storage areas; (iii) locating road access to minimize adverse impacts, increased building setbacks, step-down in building heights; and (iv) increasing lot sizes and lower density or intensity of land use.

- J. The Parties agree to undertake a review and evaluation of operational and maintenance responsibilities of transportation facilities located within City limits.
- K. The Parties agree to cooperate on the preparation and implementation of any neighborhood or community plans within the areas subject to this Agreement.
- L. The Parties agree to establish and maintain wildlife corridors and coordinate with the state and federal wildlife agencies when reviewing development proposals within the Joint Planning Areas set forth in Exhibit A.
- M. In the event that any modifications to permits of the Southwest Florida Water Management District are necessary to reflect changes in the entity responsible for managing surface water under such permits as a result of annexation, the Parties agree to jointly pursue such amendment within thirty (30) days of the annexation.

N. For purposes of this Agreement, "Conservation" includes, but is not limited to, wetland and upland habitat protection and management, establishing and maintaining habitat and wildlife corridors, establishing and maintaining environmental buffers, and providing for limited improvements to facilitate passive recreation. Conservation areas shall be designated on master, preliminary and final plans (or their equivalent), and site development plans, and shall be protected in perpetuity.

11. Other Rights and Agreements.

- A. Other Rights. Nothing in this Agreement precludes either the City or the County from exercising its rights pursuant to Chapters 380, Florida Statutes, to challenge any regional impact development order.
- B. Other Contemporaneous Agreements. The Parties do not intend for this Agreement to amend, modify, supersede, or terminate any other agreement between the City and County in effect as of January 9, 2007.

12. Notice to Parties.

All notices, consents, approvals, waivers, and elections that any Party requests or gives under this Agreement will be in writing and shall be given only by hand delivery for which a receipt is obtained, or certified mail, prepaid with confirmation of delivery requested. Notices will be delivered or mailed to the addresses set forth below or as either Party may otherwise designate in writing.

If to the County:

Sarasota County  
Attn: County Administrator  
1660 Ringling Blvd.  
Sarasota, FL 34236

If to the City:

City of Venice  
Attn: City Manager  
401 West Venice Avenue  
Venice, FL 34285

Notices, consents, approvals, waivers, and elections will be deemed given when received by the Party for whom intended.

13. Discharge.

This Agreement is solely for the benefit of the City and the County, and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party. Nothing in this Agreement, either expressed or implied, is intended or shall be construed to confer upon or give any person, corporation or governmental entity other than the Parties any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof, and all of the provisions, representations, covenants, and conditions herein contained shall inure to the sole benefit of and shall be binding upon the Parties and their respective representatives, successors and assigns.

14. Validity of Agreement.

The City and the County each represent and warrant to the other its respective authority to enter into this Agreement, acknowledge the validity and enforceability of this Agreement, and waive any future right or defense based on a claim of illegality, invalidity, or unenforceability of any nature. The City hereby represents, warrants and covenants to and with the County that this Agreement has been validly approved by the Venice City Council at a public hearing of the Venice City Council held pursuant to the provisions of Section 163.3171(3), Florida Statutes, and Chapter 171, Part II, Florida Statutes, that it has been fully executed and delivered by the City, that it constitutes a legal, valid and binding

contract enforceable by the Parties in accordance with its terms, and that the enforceability hereof is not subject to any impairment by the applicability of any public policy or police powers. The County hereby represents, warrants and covenants to and with the City that this Agreement has been validly approved by the Sarasota County Board of County Commissioners at a public hearing of the Board held pursuant to the provisions of Section 163.3171(3), Florida Statutes, that it has been duly executed and delivered by the County, that it constitutes a legal, valid and binding contract enforceable by the Parties in accordance with its terms, and that the enforceability hereof is not subject to any impairment by the applicability of any public policy or police powers.

15. Enforcement.

This Agreement shall be enforceable by the Parties hereto by whatever remedies are available in law or equity, including but not limited to injunctive relief and specific performance.

16. Covenant to Enforce.

If this Agreement or any portion hereof is challenged by any judicial, administrative, or appellate proceeding (each Party hereby covenanting with the other Party not to initiate or acquiesce to such challenge or not to appeal any decision invalidating any portion of this Agreement), the Parties collectively and individually agree, at their individual sole cost and expense, to defend in good faith its validity through to a final judicial determination, unless both Parties mutually agree in writing not to defend such challenge or not to appeal any decision invalidating any portion of this Agreement.

17. Term and Review.

A. Original Term. This Agreement shall take effect upon its filing with the Clerk of the Circuit Court of Sarasota County and, unless amended or extended in accordance with

its terms, shall expire on June 30, 2032.

- B. Extension: This Agreement shall be automatically extended past the original term for one additional ten (10) year term unless either the City or the County, as the case may be, delivers a notice of non-renewal to the other Party at least one hundred eighty (180) days prior to the expiration of the original term of this Agreement. If it is extended for an additional ten (10) year term, this Agreement shall be automatically extended for one additional five (5) year term unless either the City or the County, as the case may be, delivers a notice of non-renewal to the other Party at least one hundred eighty (180) days prior to the expiration of the ten (10) year extension. A Party delivering such a notice of non-renewal as aforesaid may, in such Party's sole discretion, revoke such notice of non-renewal at any time prior to the expiration date of the original term or any extended term of this Agreement.
- C. Review. During the comprehensive plan Evaluation and Appraisal Report review process required by Chapter 163, Florida Statutes, each Party will review the terms of this Agreement and consider amendments, as necessary.
- D. If the law does not allow this Agreement to have the term set forth above, then the term shall be twenty (20) years or the maximum term of years allowed by law, whichever is greater, and at least eighteen (18) months before the expiration of the twenty (20) year term the Parties agree to commence negotiations for another interlocal agreement to govern the matters addressed in this Agreement.

18. 19. Amendment. Amendments may be proffered by either Party at any time.

Proposed amendments shall be in writing and must be approved by a majority of the boards of both Parties or shall be considered not adopted.



19. Future Charter Amendments. The Parties agree that in the event the Sarasota County Charter is amended to require a joint planning agreement or similar agreement as a condition for future annexations or to otherwise provide restrictions or conditions on planning, design or regulatory functions and prerogatives currently within the authority of municipalities located in Sarasota County, that this Agreement shall constitute full compliance with such a requirement. The County agrees to provide the City with notice and an opportunity to provide charter amendment language sufficient to accomplish this purpose. During the term of this Agreement, Sarasota County shall not propose or adopt any charter amendment that negates the terms and conditions of this Agreement.
20. Subsequent Legislative Enactments. The Parties agree and covenant, having given and received valuable consideration for the promises and commitments made herein, it is their desire, intent and firm agreement to be bound by and observe the terms of this Agreement wherever such terms are more stringent than those subsequently enacted by the Legislature.
20. Miscellaneous.
- A. Entire Agreement. Except as otherwise set forth herein, this Agreement embodies and constitutes the entire understanding of the Parties with respect to the subject matters addressed herein, and all prior agreements, understandings, representations and statements, oral or written, are superseded by this Agreement.
- B. Governing Law and Venue. The laws of the State of Florida shall govern this Agreement, and venue for any action to enforce the provisions of this Agreement shall be in the Circuit Court of the Twelfth Judicial Circuit of Florida, in and for Sarasota County, Florida.

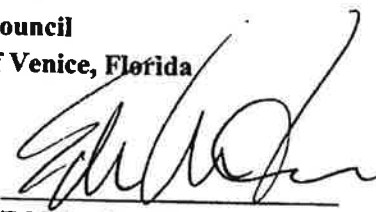
C. Compliance with Chapter 171, Part H, Florida Statutes. The Parties agree that this Agreement also meets the requirements of Chapter 171, Part II, Florida Statutes. The Parties agree that pursuant to Section 171.204, Florida Statutes, the restrictions on the character of land that may be annexed pursuant to Chapter 171, Part I, Florida Statutes, shall not be restrictions on land that may be annexed in accordance with this Agreement provided that such land is contiguous, urban in character, and compact and otherwise meets the terms and conditions of this Agreement.

21. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provision hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

**IN WITNESS WHEREOF**, the CITY OF VENICE, FLORIDA has caused this Agreement to be executed by its Mayor and affixed its official seal, attested by its Clerk pursuant to the Authorization of the Venice City Council, and SARASOTA COUNTY, FLORIDA has caused this Agreement to be executed by its Chair and affixed its official seal, attested by its Clerk, pursuant to the authorization of the Board of County Commissioners, on the day and year indicated below.

**City Council  
City of Venice, Florida**


**By:**

  
**Ed Martin, Mayor**

**ATTEST:**

  
**Lori Stelzer, City Clerk**

**Approved as to form and Execution:**

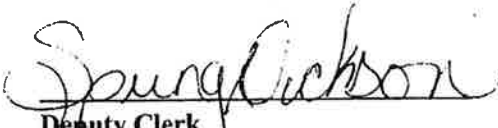
**By:**  **For**  
**Robert C. Anderson, Attorney for  
the City of Venice, Florida**

**Board of County Commissioners  
Sarasota County, Florida**

By:

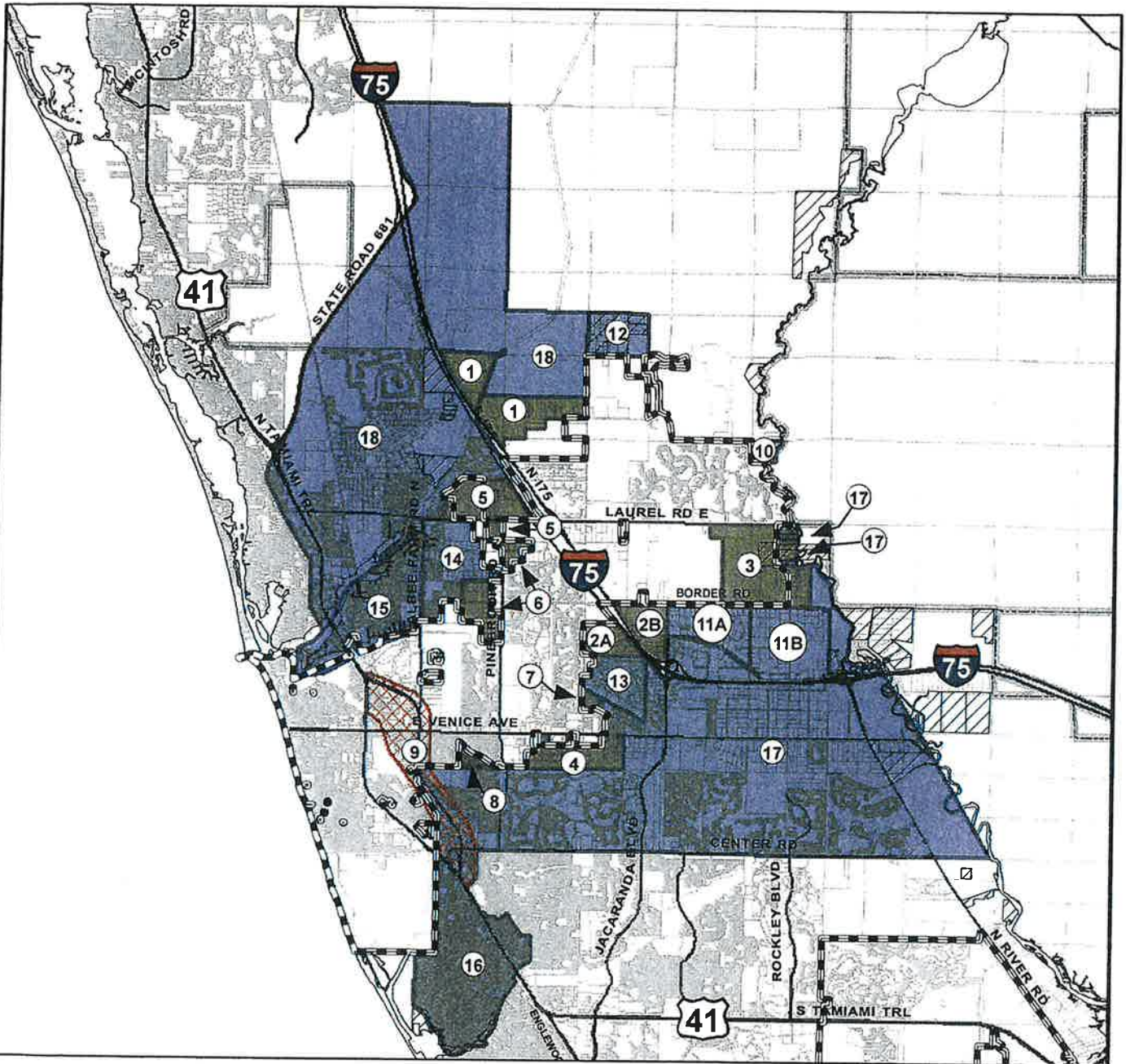
  
**Joseph A. Barbetta, Chair**  


**ATTEST:**

  
**Deputy Clerk**





**Approved as to form and Execution:**

By:   
**County Attorney**



## JOINT PLANNING AREA

### Legend

-  POTENTIAL ANNEXATION AREAS
-  POTENTIAL COORDINATION/COOPERATION AREA (NO ANNEXATION)
-  EXISTING JOINT PLANNING STUDY
-  ESLPP PROTECTION PRIORITY SITE

NOTE: Area 6 clarification arrow added 5/20/08; additional clarifications made October 2010: four areas (former areas 4, 9A, 9B and 10 deleted from Potential Annexation Area (Green Areas) and added to Potential Coordination/Cooperation (Blue Areas as areas 10, 11A, 11B and 12 [all other areas renumbered accordingly]).

October 7, 2010 N:\Growth Management\BUE\Browns\ANNEXATIONS\9A\2010\VENICE\_PlanningAreasAmend10-2010.mxd

ORDINANCE NO. 2010-079

### EXHIBIT A

(to the Agreement)

PREPARED BY SARASOTA COUNTY  
PLANNING AND DEVELOPMENT SERVICES  
PLANNING SERVICES - GIS  
OCTOBER 2010



**Exhibit B**  
**City of Venice - Sarasota County**  
**Joint Planning Agreement Matrix**

<b>POTENTIAL ANNEXATION AREAS (Green Areas on Exhibit A)</b>						
<b>Location</b>	<b>Approx. Acreage</b>	<b>Existing County Future Land Use</b>	<b>Maximum Allowable Density per City of Venice Comprehensive Plan (Adopted 2010)</b>	<b>Transportation</b>	<b>Water and Sewer</b>	<b>Environment</b>
#1 (Rustic Road)	489	County Semi-Rural	Subarea 1: 5 to 9 d.u./ac. Subarea 2: 5 d.u./ac.	Intersection Improvements on Knight's Trail	City Water and Sewer	No Issues Identified
#2A (Auburn Road to I-75)	176	County Moderate Density Residential	3 d.u./ac.	No Issues Identified	West of I-75, City Water and Sewer	No Issues Identified
#2B (I-75 to Jacaranda Boulevard)	175	County Semi-Rural, Commercial	Subarea 1: 9 d.u./ac. Subarea 2: 13 d.u./ac. Subarea 3: 18 d.u./ac.	Require ROW Dedication for Jacaranda Blvd.	East of I-75, City Water and County Sewer	No Issues Identified
#3 (Border Road to Myakka River)	629	County Semi-Rural	Subarea 1: 5 d.u./ac. Subarea 2: 3 d.u./ac.	Extend Jackson Road from Border Road to Laurel Road as two-lane facility	City Water and County Sewer	City will support purchase or require conservation easement along River
#4 (South Venice Avenue)	239	Commercial, Medium Density Residential	7 d.u./ac.	Potential Neighborhood Roadway Interconnection to Hatchett Creek Road	City Water and Sewer, Evaluate Interconnections	No Issues Identified
#5 (Laurel Road Mixed Use)	296	County Moderate Density Residential, Medium Density Residential, Mixed Use	8 d.u./ac.	Maintain Consistency with Pinebrook / Honore Road Extension	County Water and Sewer	No Issues Identified

Note: Area 5 and 6 size clarifications made Nov. 12, 2008; additional clarifications made October 2010 include: (1) four areas (former areas 4, 9A, 9B and 10) deleted from Potential Annexation (Green Areas on Exhibit A) and added to Potential Coordination/Cooperation (Blue Areas on Exhibit A) as areas 10, 11A, 11B and 12 with revised utility and environmental commitments; (2) name changes to reflect City of Venice Comprehensive Plan; and (3) revised acreages to reflect approximations.

POTENTIAL ANNEXATION AREAS (Green Areas on Exhibit A)						
Location	Approx. Acreage	Existing County Future Land Use	Maximum Allowable Density per City of Venice Comprehensive Plan (Adopted 2010)	Transportation	Water and Sewer	Timing of Infrastructure Availability (Years)
#6 (Pinebrook Road)	232	County Moderate Density Residential	3 d.u./ac.	ROW for future four-laning of Pinebrook. Note: environmental and FCT funding issues with going in after the fact and running road further south. However, there is not a need for improvement given current traffic volumes.	City Water and Sewer	1 - 15
#7 (Auburn Road)	25	County Moderate Density Residential	5 d.u./ac.	No Issues Identified	City Water and Sewer	1 - 5
#8 (Gulf Coast Boulevard)	33	County Moderate Density Residential	3.5 d.u./ac.	No Issues Identified	City Water and Sewer	N/A (existing)

EXISTING JOINT PLANNING STUDY (Red Hatched Areas on Exhibit A)						
Location	Approx. Acreage	Existing County Future Land Use	Maximum Allowable Density per City of Venice Comprehensive Plan (Adopted 2010)	Transportation	Water and Sewer	Timing of Infrastructure Availability (Years)
#9 (US 41 Bypass)	732	N/A	N/A	City and County support US 41 Bypass widening	City and County Water and Sewer within each respective jurisdiction	N/A within this JPA

Note: Area 5 and 6 size clarifications made Nov. 12, 2008; additional clarifications made October 2010 include: (1) four areas (former areas 4, 9A, 9B and 10) deleted from Potential Annexation (Green Areas on Exhibit A) and added to Potential Coordination/Cooperation (Blue Areas on Exhibit A) as areas 10, 11A, 11B and 12 with revised utility and environmental commitments; (2) name changes to reflect City of Venice Comprehensive Plan; and (3) revised acreages to reflect approximations.

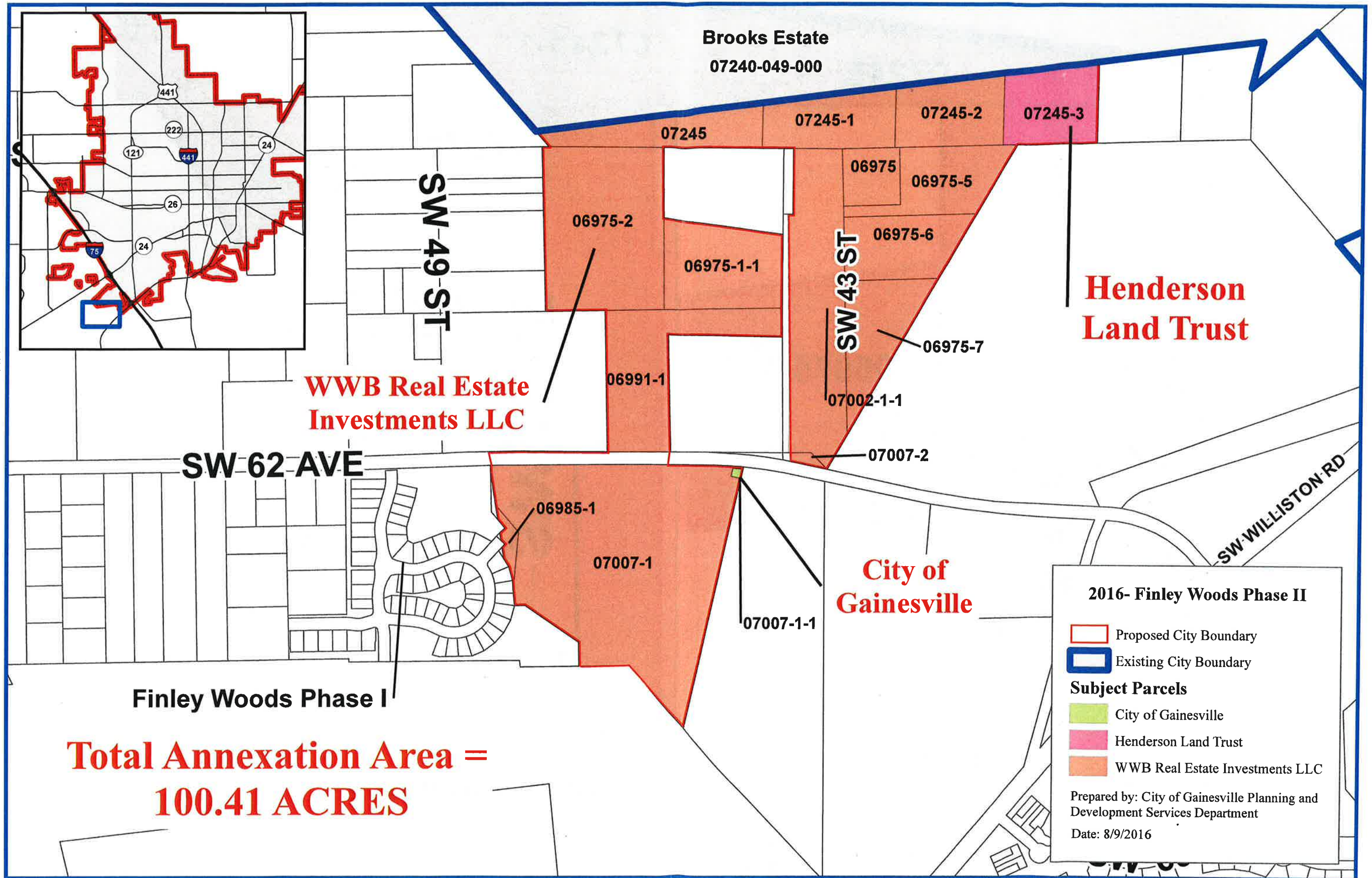


Note: Area 5 and 6 size clarifications made Nov. 12, 2008; additional clarifications made October 2010 include: (1) four areas (former areas 4, 9A, 9B and 10) deleted from Potential Annexation (Green Areas on Exhibit A) and added to Potential Coordination/Cooperation (Blue Areas on Exhibit A) as areas 10, 11A, 11B and 12 with revised utility and environmental commitments; (2) name changes to reflect City of Venice Comprehensive Plan; and (3) revised acreages to reflect approximations.

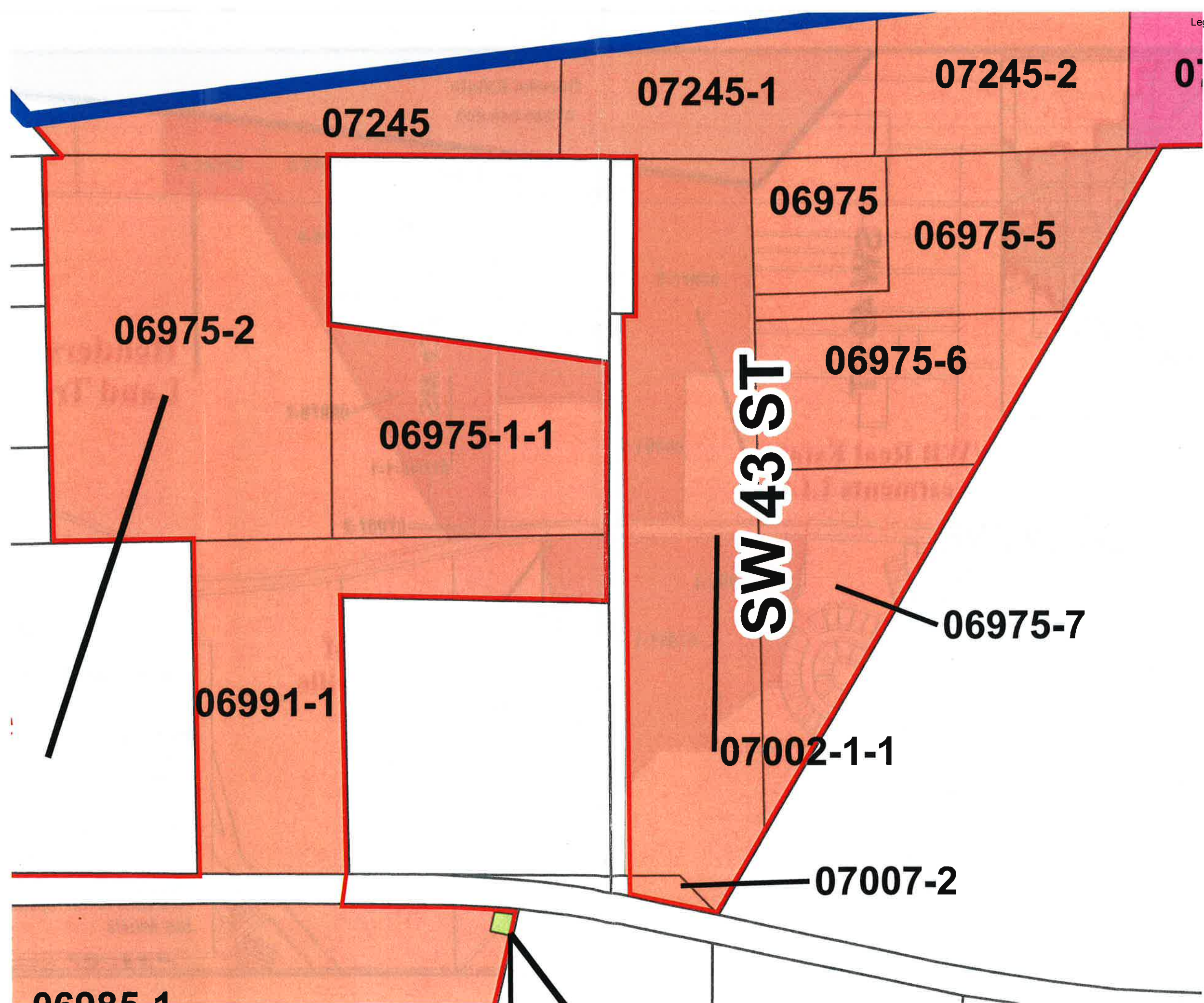


## Finley Woods Voluntary Annexation Schedule

Date	Action
8/4/2016	Annexation request to the City Commission. 1. Accept Petition (Sect. 171.044(2)) 2. Direct staff to prepare and advertise annexation ordinance 3. Provide notification to the County (Sect. 171.044(6))
8/16/2016	Notification provided to the Board of County Commissioners via certified mail by the Governing Body 10 days prior to advertising (Sect. 171.044(6))
8/31/2016	First display ad runs in Sun - Draft Ordinance at Clerk's Office for public review
9/7/2016	County Manager sends a letter to City Manager indicating that they have concerns
9/7/2016	Second display ad runs in Sun
9/15/2016	First Reading of the Annexation Ordinance
10/4/2017	City Manager sends a letter to County Manager acknowledging receipt of letter and providing assurance that staff will cooperate to transition services if annexation is adopted.
10/6/2016	Second Reading of the Annexation Ordinance continued due to Hurricane Mathew; email sent to County that night
10/11/2017	BOCC Discusses City of Gainesville Annexation: Status Update and Discussion of Appeal Process; County staff gives a presentation on appeals process
10/18/2017	City and County staff meet at the County Attorney's Office to discuss issues related to annexation and agree to postpone the scheduled 2nd reading of the Ordinance on 10/20/17 to better coordinate transition of services
10/20/2016	Second Reading of the Annexation Ordinance continued to give City and County time to coordinate
11/2/2017	City & County staff and the Applicant, Mr. Williams meet at City Hall to review the Urban Services Report drafted by City staff to outline the transition of services.
11/3/2016	Second Reading of the Annexation Ordinance continued at the request of the applicant to a date certain of 11/17/2016
11/17/2016	Second Reading of the Annexation Ordinance continued to a date uncertain at the request of the developer
1/3/2017	Mayor Poe sends letter to BOCC, providing notification that 1st and 2nd reading have been rescheduled to February 2nd and February 16th, 2017. (Sect. 171.044(6))
1/26/2017	County Manager sends a letter to City Manager indicating that they still have concerns
1/18/2016	First display ad runs in GNV Sun
1/25/2016	Second display ad runs in GNV Sun
2/2/2016	First Reading of the Annexation Ordinance
2/16/2016	Second Reading of the Annexation Ordinance
2/16/2016	Effective Date of Annexation
2/22/2017	Mayor files ordinance with the County Manager with Map & Legal Description (as required by Sect. 171.044(3))
2/28/2017	BOCC Discusses City of Gainesville Annexation: Status Update and Discussion of Appeal Process; staff is directed to appeal annexation
4/17/2017	1st City/County staff negotiation meeting
6/12/2017	2nd City/County staff negotiation meeting - City presents Settlement Agreement
6/15/2017	County sends the City an alternate proposal for Interim Agreement
6/19/2017	3rd City/County staff negotiation meeting
7/14/2017	County Manager sends letter to City Manager, requesting a Joint City/County Commission meeting on 8/14/2017







# Finley Woods Legal Requirements

## Overview

At the August 4<sup>th</sup>, 2016 City Commission meeting, the City Commission accepted a voluntary annexation petition from the property owners. On September 15<sup>th</sup> 2016, the City Commission approved a previous version of this Ordinance on first reading. Second reading of the previous version of this ordinance was continued multiple times, due to a hurricane, to allow time for City and County staff to coordinate transition of service issues and at the property owners' request. Because of the multiple continuations, and in order to provide the most thorough City Commission review and public participation possible, the ordinance was re-advertised for a first and second reading in the Spring of 2017. The annexation Ordinance became effective immediately upon adoption on Thursday, February 16th.

## LEGAL REQUIREMENTS

Municipal annexation in Florida is governed by the Municipal Annexation or Contraction Act (the "Act"), which is found in Chapter 171, Florida Statutes. Section 171.044, F.S., sets forth the requirements and procedure for voluntary annexation, whereby property owners may voluntarily request a municipality to include their property within the corporate limits of that municipality. Besides various procedural requirements, Section 171.044, F.S., sets forth the following substantive requirements for voluntary annexations: 1) the proposed annexation area must be "contiguous" to the municipality; 2) the proposed annexation area must be "reasonably compact"; and 3) the annexation must not create any "enclaves."

### Contiguous

Section 171.031, F.S., of the Act defines "contiguous" as follows: "a substantial part of a boundary of the territory sought to be annexed by a municipality is coterminous with a part of the boundary of the municipality. The separation of the territory sought to be annexed from the annexing municipality by a publicly owned county park; a right-of-way for a highway, road, railroad, canal, or utility; or a body of water, watercourse, or other minor geographical division of a similar nature, running parallel with and between the territory sought to be annexed and the annexing municipality, shall not prevent annexation under this act, provided the presence of such a division does not, as a practical matter, prevent the territory sought to be annexed and the annexing municipality from becoming a unified whole with respect to municipal services or prevent their inhabitants from fully associating and trading with each other, socially and economically."

When used in the context of municipal annexation, a Florida District Court of Appeal has articulated further that "contiguous" means "touching or adjoining in a reasonably substantial...sense." *City of Sanford v. Seminole County*, 538 So. 2d 113 (Fla. 5th DCA 1989).

### Reasonably Compact

The Act requires voluntary annexations to be "reasonably compact," and defines "compactness" in Section 171.031, F.S., as: "concentration of a piece of property in a single area and precludes any action which would create enclaves, pockets, or finger

areas in serpentine patterns. Any annexation proceeding in any county in the state shall be designed in such a manner as to ensure that the area will be reasonably compact."

The Act provides no further definitions or explanation of the "reasonably compact" requirement (with the exception of defining "enclave" as discussed below; 'enclave' is mentioned in the Act both within the definition of 'compactness' and as a stand-alone provision of the Act). However, case law from Florida's mid-level courts (i.e., Florida District Courts of Appeal; no cases on point from the Supreme Court of Florida) provide further elaboration on the "reasonably compact" requirement. Specifically, case law has defined the term "pocket" (which is included in the statutory definition of "compactness") as meaning "a small isolated area or group" when viewed "in relationship to the overall scope and configuration of the parcel in question and the surrounding municipal property," or meaning a voluntary annexation may not leave a small isolated unincorporated area "in a sea of incorporated property." *City of Center Hill v. McBryde*, 952 So. 2d 599 (Fla. 5th DCA 2007); *City of Sanford v. Seminole County*, 538 So. 2d 113 (Fla. 5th DCA 1989). Further, the term "serpentine" (which is also included in the statutory definition of "compactness") has been defined to mean "winding or turning one way and another," meaning voluntary annexations may not be shaped in a finger pattern that are winding or turning. *City of Sanford v. Seminole County*.

### **Enclave**

Section 171.031, F.S., of the Act defines "enclave" as: "(a) any unincorporated improved or developed area that is enclosed within and bounded on all sides by a single municipality; or (b) any unincorporated improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality."

### **General Purpose of Municipal Corporation**

A Florida Court of Appeal has described that, as a city considers any particular annexation of land, it is helpful to consider the general purpose and goals of a municipal corporation as follows: "the legal as well as the popular idea of municipal corporation in this country, both by name and use, is that of oneness, community, locality, vicinity; a collective body, not several bodies, a collective body of inhabitants—that is, a body of people collected or gathered together in one mass, not separated into distinct masses, and having a community of interest because residents of the same place, not different places. So, as to territorial extent, the idea of a city is one of unity, not of plurality; of compactness or contiguity, not separation or segregation." *City of Sanford v. Seminole County*.

### **Discussion**

It is the opinion of city staff that the procedural and substantive requirements for voluntary annexation described in Section 171.044, F.S., have been met as follows: First, the annexation area is "contiguous" to the city limits because a substantial part of a boundary of the annexation area is coterminous with a part of the city boundary, and is touching or adjoining the city limits in a reasonably substantial sense. Second, the annexation area is "reasonably compact" because it is a reasonable concentration of property in a single area and does not create any enclaves, pockets, or finger areas in serpentine patterns. This annexation would not result in a pattern of land that is

winding or turning, and would not create any small isolated unincorporated area that is left in a sea of incorporated property when viewed in relationship to the overall scope and configuration of the annexation area and surrounding municipal property. Third, this annexation would not create any "enclaves" because the annexation would not result in any unincorporated property that is either enclosed and bound on all sides by the city limits; or enclosed within and bounded by the city limits and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the city.

**Stewart, Lila M.**

---

**From:** McDermott, Sean M.  
**Sent:** Friday, June 09, 2017 12:10 PM  
**To:** storres@alachuacounty.us; mlieberman@alachuacounty.us; Corbin Hanson (cfhanson@alachuacounty.us); 'lniblock@alachuacounty.us'; Jeffrey L. Hays (jhays@alachuacounty.us); 'jharriott@alachuacounty.us'  
**Cc:** Lyons, Anthony R.; Shalley, Nicole M.; Persons, Andrew W.; Stewart, Lila M.; Thomas, Wendy C; Leistner, Deborah L.  
**Subject:** Draft Settlement Agreement  
**Attachments:** Settlement Agreement.docx; Exhibit A - Settlement Agreement.docx

All,

After receiving helpful input and suggestions from the County, and in anticipation of the City-County conflict assessment meeting scheduled for Monday at 4:30pm, the City has drafted the attached Settlement Agreement for consideration.

We look forward to meeting and working towards thoughtful solutions to these important issues.

Sincerely,

**Sean M. McDermott**  
Assistant City Attorney II  
City of Gainesville  
P.O. Box 490, Sta. 46  
Gainesville, FL 32627  
352-393-8820

NOTICE: Under Florida law, most written communications to or from city officers and employees regarding city business are public records subject to public disclosure.



## SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into by and between ALACHUA COUNTY, a charter county and political subdivision of Florida ("County"), and the CITY OF GAINESVILLE, a municipal corporation ("City").

### RECITALS

**WHEREAS**, the County in 2010 adopted the Alachua County Mobility Plan and the City in 2015 (Ordinance No. 140023) rescinded transportation concurrency and adopted a Transportation Mobility Program. Therefore, both jurisdictions now implement an alternative mobility funding system to address the transportation impacts of development; and

**WHEREAS**, Section 163.3180(5)(g) encourages adjacent local governments to coordinate how development impacts to transportation facilities are addressed, and the Comprehensive Plans of both the City and the County require coordination of land use and transportation planning; and

**WHEREAS**, Section 163.3171, Florida Statutes, grants the City and the County the authority to jointly exercise the powers granted under the Community Planning Act (Chapter 163, Part II, Florida Statutes) and enter into Joint Planning Agreements to facilitate intergovernmental cooperation to encourage planning in advance of jurisdictional changes; and

**WHEREAS**, the City and the County currently do not have a Joint Planning Agreement in place to address mutual and cross-jurisdictional land use and transportation planning; and

**WHEREAS**, on February 16, 2017, the City adopted Ordinance No. 160216, which, at the request of the property owner, annexed approximately 100 acres of property into SW Gainesville ("Annexation 1"); and

**WHEREAS**, on February 28, 2017, the County adopted Resolution No. 2017-28, which initiated the intergovernmental conflict resolution procedures set forth in Chapter 164, Florida Statutes, and alleged that the Annexation 1 does not meet the requirements for annexation set forth in Chapter 171, Florida Statutes, and that the County will suffer material injury by reason of, inter alia, impacts to land use and transportation planning and funding of future transportation infrastructure needs; and

**WHEREAS**, on March 2, 2017, the City adopted Ordinance No. 160398, which changed the land use categories of approximately 157 acres of property in SW Gainesville, following voluntary annexation into the City in June 2016, from County to City land use categories ("Land Use Change 1"); and

**WHEREAS**, on April 3, 2017, the County filed an administrative challenge petition (Florida Division of Administrative Hearings Case No. 17-1992GM) pursuant to Section 163.3184(5), Florida Statutes, and alleged that the Land Use Change 1 is not "in compliance" as set forth in Section 163.3184(1)(b), Florida Statutes, and that the County has a substantial interest by reason of future impacts on and the increased need for County transportation infrastructure to serve the potential future development within the City; and

**WHEREAS**, on June 1, 2017, the City adopted Ordinance No. 160744, which, at the request of the property owner, annexed approximately 108 acres of property into SW Gainesville ("Annexation 2");



and

**WHEREAS**, City Ordinance No. 160981, which will change the land use categories of the property that is the subject of Annexation 2 from County to City land use categories, will be scheduled before the City Commission for adoption in July or August ("Land Use Change 2"); and

**WHEREAS**, as of the Effective Date of this Agreement, at least three additional private property owners have discussed with the City their desire to voluntarily annex into the City; and

**WHEREAS**, as part of the intergovernmental conflict resolution process for Annexation 1, the County and the City discussed working together to achieve mutually acceptable solutions to the issues raised by the County in its challenges to Annexation 1 and Land Use Change 1, as well as any potential future challenges to Annexation 2 or Land Use Change 2, in a holistic manner because of the overlapping primary issues (Annexation 1, Land Use Change 1, Annexation 2, and Land Use Change 2 shall be referred to collectively as "Subject Cases"). Consequently, the County provided a document with recommended components of an agreement to settle the Subject Cases, which is attached to this Agreement as **Exhibit A**; and

**WHEREAS**, the County and the City both recognize the benefit to their respective citizens that can be achieved through a coordinated and thoughtful implementation of the components of **Exhibit A**, and therefore desire in this Agreement to establish the framework to achieve same; and

**WHEREAS**, the County and the City are authorized by Section 163.01, Florida Statutes, and Sections 164.101-164.1061, Florida Statutes, to enter into this Agreement.

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein, the City and the County (collectively, "Parties") agree as follows:

1. **Recitals.** The above recitals are true and correct and are hereby incorporated into this Agreement for all purposes.
2. **Contingent on Governing Body Approval.** The Parties' obligations and rights under this Agreement are expressly made contingent upon the approval of this Agreement by the Alachua County Board of County Commissioners ("BOCC") and the City of Gainesville Commission ("City Commission"). In the event that either the BOCC or the City Commission does not approve this Agreement on or before \_\_\_\_\_, 2017, this Agreement shall be null and void and the Parties shall retain all of their rights to continue with the Subject Cases.
3. **Term and Recording.** This Agreement shall become effective on the date the last of the Parties executes this Agreement as indicated below, subject to the contingency described in Section 2 of this Agreement ("Effective Date"). Pursuant to Section 163.01(11), Florida Statutes, the County shall file a fully executed copy of this Agreement with the Clerk of the Circuit Court of Alachua County, Florida.
4. **Terms of Agreement.**
  - a. **City Annexation Stay.** The City agrees to neither accept applications for nor approve any annexations for a period of six months from the Effective Date of this Agreement.

- b. *Joint Planning Agreement.* Throughout the six-month period described above, the Parties agree to consistently meet and work together to negotiate and draft the terms of a Joint Planning Agreement to present to the BOCC and the City Commission prior to the conclusion of the six-month period. The Joint Planning Agreement shall address:
  - i. *Joint Planning Area.* The establishment of the Joint Planning Area to be the geographical area that is subject to the Joint Planning Agreement.
  - ii. *Land Use Planning.* The establishment of joint land use policies, which shall include the approximate acreage and acceptable ranges of density or intensity of use, the coordination of any particular utility infrastructure needs, and the coordinated protection of natural resources such as significant uplands and wetlands.
  - iii. *Transportation Planning.* The establishment of joint transportation planning policies, which shall include:
    - 1. A joint Transportation Mobility Plan that includes: 1) agreed upon transportation projects that recognize the existing and planned roadway network within the Joint Planning Area to address future transportation system capacity needs and right-of-way reservation; 2) the coordination of interconnectivity to promote local travel; 3) the implementation of multi-modal considerations including requirements for multi-modal facilities, sidewalks, trails, and transit accommodations; and 4) the coordination of an approach to the assessment and expenditure of transportation mobility fees.
    - 2. Thresholds or approaches to transfer transportation infrastructure maintenance responsibilities between the Parties upon annexation.
- c. *Access to Wiley Property.* The City shall require connectivity to Tax Parcel No. 06975-001-000 ("Wiley Property") upon development of the property abutting the Wiley Property to the north of SW 62<sup>nd</sup> Avenue. The City shall encourage the owner/developer of the property that was the subject of the Annexation to ensure that the Wiley property has ingress and egress capable of emergency vehicle access, as determined by the City's Fire Department, within two months of the Effective Date of this Agreement.

## 5. *Mutual Releases.*

- a. The County hereby waives and releases, acquits, satisfies, and forever discharges the City, including any elected officials, officers, directors, shareholders, managing members, and employees, and any and all subsidiaries, affiliates, legal representatives, insurance carriers, successors, and assigns thereof, from any and all claims, counterclaims, defenses, actions, causes of action, suits, controversies, agreements, promises, and demands whatsoever that the County ever had or now has, in law or in equity, for, upon, or by any reason of any matter, cause, or thing whatsoever in direct connection with any claim raised by any Party in the Subject Cases as of the date of this Agreement. In addition, and without waiving the generality of the foregoing, the County covenants with and warrants to the City, that there exist no claims, counterclaims, defenses, objections, offsets, or claims of offsets by the County against the City, with regard to any claim raised by any Party in the Subject Cases that are not included in and covered by this Agreement. The release set forth in this provision does not apply to any rights granted by or arising from this Agreement.
- b. The City hereby waives and releases, acquits, satisfies, and forever discharges the County,

including any elected officials, officers, directors, shareholders, managing members, and employees, and any and all subsidiaries, affiliates, legal representatives, insurance carriers, successors, and assigns thereof, from any and all claims, counterclaims, defenses, actions, causes of action, suits, controversies, agreements, promises, and demands whatsoever that the City ever had or now has, in law or in equity, for, upon, or by any reason of any matter, cause, or thing whatsoever in direct connection with any claim raised by any Party in the Subject Cases as of the date of this Agreement. In addition, and without waiving the generality of the foregoing, the City covenants with and warrants to the County, that there exist no claims, counterclaims, defenses, objections, offsets, or claims of offsets by the City against the County, with regard to any claim raised by any Party in the Subject Cases that are not included in and covered by this Agreement. The release set forth in this provision does not apply to any rights granted by or arising from this Agreement.

6. **Entire Agreement; Amendments.** This Agreement represents the entire understanding and agreement between the Parties with respect to the subject matter hereof. No representations have been made, either express or implied by the Parties, other than those expressly set forth in this Agreement. This Agreement or any part hereof may not be changed, amended, waived, discharged, or terminated except by an instrument in writing signed by all Parties and executed with the same formality as this Agreement.
7. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original and need not be signed by more than one of the Parties and all of which shall constitute one and the same agreement. The Parties further agree that each Party shall execute and deliver all other appropriate supplemental agreements and other instruments, and take any other action necessary to make this Agreement fully and legally effective, binding, and enforceable as between them and as against third parties.
8. **Interpretation.** This Agreement shall be read and interpreted in such a manner as to give all provisions their ordinary and customary meaning, and all words, terms, and phrases not otherwise specifically defined by a capitalized term or otherwise shall have the same meaning and interpretation as customarily used among lay persons. The terms "hereby," "hereof," "herein," "hereto," "hereunder," and any similar terms refer to this Agreement in its entirety and not solely to the particular section or paragraph in which the term is used. All words, terms, and phrases specifically defined by a capitalized term shall apply throughout this Agreement in its entirety and not solely to the particular section or paragraph in which the term is used. In construing this Agreement, the singular shall be held to include the plural, the plural shall include the singular, and the use of any gender shall include every other and all genders.
9. **Construction; Headings.** The Parties acknowledge that they participated in the negotiation and drafting of the terms of this Agreement and acknowledge that no provision shall be strictly construed against one party or the other based solely on draftsmanship. The Parties have entered into this Agreement without duress, coercion, or under undue influence of any kind, and are motivated by a desire to avoid the costs, time, and uncertainty associated with the Subject Cases and to arrive at a fair and reasonable agreement with regard to the Parties' dispute. The Parties acknowledge that they have been represented by counsel in connection with the negotiation of the terms of this Agreement and that they enter into this Agreement freely and voluntarily, and only after consultation with their respective counsel. All sections and descriptive headings in this Agreement are inserted for convenience only, and shall neither affect the construction or

interpretation hereof, nor add or subtract from the meaning of the contents of each section.

10. **Governing Law; Venue.** This Agreement shall be construed, interpreted, enforced, and governed in accordance with the laws of the State of Florida. Venue for any action arising out of or related to this Agreement shall be in Alachua County, Florida.
11. **Enforcement; Remedies.** The Parties shall have all equitable and legal remedies available under Florida law to enforce the terms and conditions of this Agreement, and the terms of this Agreement shall be specifically enforceable in court. In the event of any dispute hereunder or any action to interpret or enforce this Agreement, any provision hereof, or any matter arising herefrom, the prevailing party shall be paid by the non-prevailing party the reasonable attorneys' fees and costs incurred in enforcing its rights and remedies, whether incurred at the pre-trial, trial, or appellate levels, including any fees and costs incurred in determining the amount of awardable fees.
12. **Waiver of Jury Trial.** The Parties hereby knowingly, voluntarily, and intentionally waive any right to a jury trial with respect to any claims arising in connection with this Agreement.
13. **Non-Waiver.** Failure by the Parties to insist upon the strict performance of any of the terms, conditions, or provisions of this Agreement shall not be deemed to be a waiver of such terms, conditions, and provisions, and the Parties, notwithstanding such failure, shall have the right hereafter to insist upon the strict performance of any or all such terms and conditions of this Agreement as set forth herein. Any Party's waiver of any breach of this Agreement or forbearance from action shall not be a continuing waiver or a waiver of any other breach of this Agreement.
14. **Sovereign Immunity.** Nothing in this Agreement shall constitute a waiver by any party of its sovereign immunity or the provisions of Section 768.28, Florida Statutes.
15. **Severability.** If any part of this Agreement is found invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the Parties contained therein are not materially prejudiced and if the intentions of the Parties can continue to be effectuated. To that end, this Agreement is declared severable.
16. **Disclaimer of Third Party Beneficiaries.** This Agreement is solely for the benefit of the Parties and no right or cause of action shall accrue by reason hereof to or for the benefit of any third party. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give any other third person or entity any right, remedy, or claim under or by reason of this Agreement or any provisions or conditions hereof, other than as expressly stated herein.
17. **Purpose of this Agreement; Not Establishing Precedent.** By entering into this Agreement, the Parties do not admit any liability whatsoever to the other, or to any other person, arising out of any claims asserted in the Subject Cases, and expressly deny any and all such liability. The Parties acknowledge and agree that this Agreement is not intended by any Party to be construed, and shall not be construed, as an admission by any Party of any liability or violation of any law, statute, ordinance, regulation, agreement, or other legal duty of any nature whatsoever. Rather, this Agreement is for the compromise of potential and disputed claims, involving both fact and law, and the Parties enter into this Agreement in a spirit of cooperation for the purpose of ending the Subject Cases and in recognition of the desire for the speedy and reasonable resolution of the

Parties' dispute. The acceptance of proposals for purposes of this Agreement is part of a mediated settlement affecting many factual and legal issues and is not an endorsement of, and does not establish precedent for, the use of these proposals in any other circumstances.

- 18. Notices.** All notices and other communications required hereunder shall be in writing and shall be delivered personally, or by registered or certified mail, return receipt requested, postage prepaid, or by Federal Express or other nationally recognized overnight commercial delivery service, fees prepaid for next day delivery. Such notices shall be deemed to have been received: 1) upon delivery, if personally delivered; 2) upon the earlier of actual receipt or the third day after mailing, if mailed by registered or certified United States mail, return receipt requested, postage prepaid; and 3) upon the earlier of actual receipt or the next business day if sent by Federal Express or other nationally recognized overnight commercial delivery service, if fees are prepaid for next day delivery. The addresses for delivery of such notices shall be as follows, except when such other address as any party hereto shall from time to time designate to the other party by notice in writing as herein provided:

- |                   |   |
|-------------------|---|
| a. To the County: | Dr. Lee A. Niblock, County Manager<br>Alachua County<br>12 SE 1 <sup>st</sup> Street<br>Gainesville, Florida 32601    |
| With a copy to:   | Michele L. Lieberman, County Attorney<br>Alachua County<br>12 SE 1 <sup>st</sup> Street<br>Gainesville, Florida 32601 |
| b. To the City:   | Anthony Lyons, City Manager<br>City of Gainesville<br>200 E University Avenue<br>Gainesville, Florida 32601           |
| With a copy to:   | Nicolle Shalley, City Attorney<br>City of Gainesville<br>200 E University Avenue<br>Gainesville, Florida 32601        |

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Agreement on the respective dates beneath each signature.

**ALACHUA COUNTY:**

**ATTEST:**

\_\_\_\_\_  
Jesse K. Irby, II, Clerk

By: \_\_\_\_\_  
Ken Cornell, Chair  
Board of County Commissioners

Date: \_\_\_\_\_

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
Michele Lieberman, County Attorney

**CITY OF GAINESVILLE:**

**ATTEST:**

\_\_\_\_\_  
Kurt Lannon, Clerk of the Commission  
City of Gainesville

By: \_\_\_\_\_  
Lauren Poe, Mayor

Date: \_\_\_\_\_

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
Nicolle M. Shalley, City Attorney

**Exhibit A****City of Gainesville Annexation/Planning Issues  
County Staff Recommended Components of Settlement Agreement**

This document is intended to offer options for Alachua County and the City of Gainesville to pursue which may resolve several pending City of Gainesville Annexation and Comprehensive Plan challenges initiated by Alachua County. It is in the best interest of all County residents including those inside the City of Gainesville and the unincorporated area for the County and the City to pursue coordinated approaches to annexation, planning and infrastructure/service delivery inside the County's Urban Cluster. The County would like to implement a joint planning approach with the City of Gainesville for these areas as a primary tool to reach a long term resolution to these issues. Possible components of a potential settlement would address the specific components of the Finley Woods annexation as well as instituting a joint planning framework around the issues below.

**1. PLANNING AND ANNEXATION**

- a) **Planning Area:** Establish a joint planning area which would be recognized by the City and County as an area for future urban development and provision of urban services.
- b) **Land Use and Development Policies:** Create and agree upon general land use goals for the joint planning area (e.g. land use types, development pattern, and natural resource protection) to facilitate the transition from the County to the City over time.

**2. MOBILITY PLANNING**

- a) **Mobility Plan:** Recognition of a common Transportation Mobility Plan for the joint planning area, including recognition of the existing and planned roadway network within the Joint Planning Area for future transportation system capacity needs and right-of-way reservation.
- b) **Impact Fees/Mobility Fees:** Within a joint planning area, a common Mobility Fee should be collected by both jurisdictions to fund necessary transportation system capacity improvements within the joint planning area.
- c) **Interconnectivity:** Coordinate planning of local and collector street interconnections inside a joint planning area to promote local travel.
- d) **Multi-Modal Considerations:** Coordinate requirements for multi-modal facilities, sidewalks, and trails with consistent standards when addressing development impacts within a joint planning area; including provisions for transit accommodations consistent with current and planned transit services.

**3. ROAD MAINTENANCE AND OPERATIONS**

- a) **Local Option Fuel Taxes and other Local Funding Transportation Funding Sources:** Recognize the responsibilities of building and maintaining the transportation network, which includes all modes of transportation and the need to implement sustainable funding sources to meet those joint goals.
- b) **Determine thresholds at which point maintenance responsibilities and levels of service expectations may change between jurisdictions as annexation occurs in a joint planning area.**

**Exhibit A****4. REGIONAL TRANSIT**

- a) **Transit Planning:** Recognize transit as a regional transportation service and plan services and accompanying land uses accordingly.
- b) **Regional Funding of Transit:** Develop a regional funding strategy for transit services, recognizing all possible funding sources.

**5. FINLEY WOODS ANNEXATION-SPECIFIC ISSUES**

- a) **Enclave Issues:** The Finley Woods annexation results in the creation of an enclave, which is inconsistent with the requirements for voluntary annexation in Chapter 171.044, F.S. It is the County's desire to address the enclave issue.
- b) **Access to Wiley Parcels:** An access road is called for in the County approved PD Master Plan for Finley Woods, which would provide permanent functional access to the two parcels owned by Wiley. It is the County's desire for permanent functional access to be provided to the Wiley parcels coincident with the initial construction of any City-approved development plans for the areas north of SW 62<sup>nd</sup> Avenue. Until such time as the areas north of SW 62<sup>nd</sup> Avenue are developed, the developer should guarantee an interim ingress and egress that meets emergency vehicle access standards to and from the Wiley parcels from SW 62<sup>nd</sup> Avenue.
- c) **Coordination regarding western edge of parcel #07002-001-001 (owned by "WWB") omitted from City's annexation:** Several potential issues are created by the narrow strip of unincorporated land that extends north from SW 62<sup>nd</sup> Avenue to the Wiley property, including issues related to future land use, zoning, service delivery, and permitting.



**Stewart, Lila M.**

---

**From:** Sylvia Torres <STorres@alachuacounty.us>  
**Sent:** Thursday, June 15, 2017 7:52 PM  
**To:** McDermott, Sean M.; Lyons, Anthony R.; Shalley, Nicolle M.; Persons, Andrew W.; Stewart, Lila M.; Thomas, Wendy C; Leistner, Deborah L.  
**Cc:** Michele Lieberman; Corbin Hanson; Lee Niblock; Jeffrey L. Hays; James Harriott; Benjamin D. Chumley  
**Subject:** Interim Agreement  
**Attachments:** Interim Agreement (6.15.17).docx; Exhibit A - Interim Agreement.docx

All:

Please see the attached interim agreement for discussion Monday.

Best,  
Sylvia

Sylvia Torres  
Alachua County Senior Assistant County Attorney  
12 SE 1<sup>st</sup> Street  
Gainesville, FL 32601  
Ph.: 352-374-5218 Fax: 352-374-5216

*Under Florida Law, e-mail addresses are public records. If you do not want your e-mail address released to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.*

This message is intended only for the use of the individual or entity to which it is addressed. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately reply to the sender that you have received this communication in error, then delete it.

## INTERIM AGREEMENT

This Interim Agreement is entered into by and between ALACHUA COUNTY, a charter county and political subdivision of the State of Florida ("County"), and the CITY OF GAINESVILLE, a municipal corporation ("City"), collectively, "Parties."

### RECITALS

**WHEREAS**, the County in 2010 adopted the Alachua County Mobility Plan and the City in 2015 (Ordinance No. 140023) rescinded transportation concurrency and adopted a Transportation Mobility Program. Therefore, both jurisdictions now implement an alternative mobility funding system to address the transportation impacts of development; and

**WHEREAS**, the Florida Interlocal Cooperation Act of 1969, Section 163.01, Florida Statutes, encourages and empowers local government to cooperate with one another on matters of mutual interest and advantage, and provides for interlocal agreements between local governments on matter such as joint planning; and

**WHEREAS**, Section 163.3180(5)(g), Florida Statutes, encourages adjacent local governments to coordinate how development impacts to transportation facilities are addressed; and

**WHEREAS**, the Community Planning Act, Chapter 163, Part II, Florida Statutes, requires that counties and cities include in their respective planning efforts intergovernmental coordination and particularly, mechanisms for identifying and implementing joint planning areas; and

**WHEREAS**, the Comprehensive Plans of both the City and the County require coordination of land use and transportation planning; and

**WHEREAS**, Section 163.3171, Florida Statutes, grants the City and the County the authority to jointly exercise the powers granted under the Community Planning Act (Chapter 163, Part II, Florida Statutes) and enter into Joint Planning Agreements to facilitate intergovernmental cooperation to encourage planning in advance of jurisdictional changes; and

**WHEREAS**, the City and the County currently do not have a Joint Planning Agreement in place to address mutual and cross-jurisdictional land use and transportation planning; and

**WHEREAS**, on February 16, 2017, the City adopted Ordinance No. 160216, which, at the request of the property owner, annexed approximately 100 acres of property into SW Gainesville ("Annexation of Property 1"); and

**WHEREAS**, on February 28, 2017, the County adopted Resolution No. 2017-28, which initiated the intergovernmental conflict resolution procedures set forth in Chapter 164, Florida Statutes, and alleged that the Annexation of Property 1 does not meet the requirements for annexation set forth in Chapter 171, Florida Statutes, and that the County will suffer material injury by reason of, inter alia, impacts to land use and transportation planning and funding of future transportation infrastructure needs; and

**WHEREAS**, on March 2, 2017, the City adopted Ordinance No. 160398, which changed the land use categories of approximately 157 acres of property in SW Gainesville, following voluntary annexation

into the City in June 2016, from County to City land use categories ("Land Use Change of Property 2"); and

**WHEREAS**, on April 3, 2017, the County filed an administrative challenge petition (Florida Division of Administrative Hearings Case No. 17-1992GM) pursuant to Section 163.3184(5), Florida Statutes, and alleged that the Land Use Change of Property 2 is not "in compliance" as set forth in Section 163.3184(1)(b), Florida Statutes, and that the County has a substantial interest by reason of future impacts on and the increased need for County transportation infrastructure to serve the potential future development within the City; and

**WHEREAS**, on June 1, 2017, the City adopted Ordinance No. 160744, which, at the request of the property owner, annexed approximately 108 acres of property into SW Gainesville ("Annexation of Property 3"); and

**WHEREAS**, City Ordinance No. 160981, which will change the land use categories of the property that is the subject of Annexation of Property 3 from County to City land use categories, will be scheduled before the City Commission for adoption in July or August ("Land Use Change of Property 3"); and

**WHEREAS**, as of the Effective Date of this Agreement, at least three additional private property owners have discussed with the City their desire to voluntarily annex into the City; and

**WHEREAS**, as part of the intergovernmental conflict resolution process for Annexation of Property 1, the County and the City discussed working together to achieve mutually acceptable solutions to the issues raised by the County in its challenges to Annexation of Property 1 and Land Use Change of Property 2, as well as any potential future challenges to Annexation of Property 3 or Land Use Change of Property 3, in a holistic manner because of the overlapping primary issues (Annexation of Property 1, Land Use Change of Property 2, Annexation of Property 3, and Land Use Change of Property 3 shall be referred to collectively as "Subject Cases"). Consequently, the County provided a document with recommended components of a Joint Planning Agreement, or similar resolution to issues arising out of the Subject Cases, , which is attached and incorporated into this Interim Agreement as **Exhibit A**; and

**WHEREAS**, the County and the City both recognize the benefit to their respective citizens that can be achieved through a coordinated and thoughtful implementation of the components of **Exhibit A**, and therefore desire in this Interim Agreement to establish the framework to achieve same; and

**WHEREAS**, the County and the City wish to hold in stay all pending actions and all future annexation, comprehensive plan, zoning and other related actions related to the issue to be addressed in a Joint Planning Agreement, or similar resolution to issues arising out of the Subject Cases, during the term of this Interim Agreement during which the Parties will negotiate a Joint Planning Agreement or similar resolution to issues arising out of the Subject Cases; and

**WHEREAS**, the County and the City are authorized by Section 163.01, Florida Statutes, and Sections 164.101-164.1061, Florida Statutes, to enter into this Interim Agreement.

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein, the City and the County agree as follows:

1. **Recitals.** The above recitals are true and correct and are hereby incorporated into this Interim Agreement for all purposes.
2. **Governing Body Approval.** This Interim Agreement are expressly made and entered into by Alachua County Board of County Commissioners ("BOCC") and the City of Gainesville Commission ("City Commission").
3. **Term.** This Interim Agreement shall become effective on the date the last of the Parties executes this Interim Agreement as indicated below, subject to the contingency described in Section 2 of this Agreement ("Effective Date") and terminate after six calendar months unless extended pursuant to the terms of this Interim Agreement. In the event that this Interim Agreement terminates without the adoption of a Joint Planning Agreement or similar resolution to issues arising out of the Subject Cases, each Subject Case being negotiated pursuant to Chapter 164, Florida Statutes, shall proceed to the Section 164.1055(2), Florida Statutes, mediation phase of the Florida Governmental Conflict Resolution Act process.
4. **Agreement.**
  - a. **Subject Cases Stay.** The Parties agree that they will continue to request that Florida Division of Administrative Hearings Case No. 17-1992GM remain in stay at least until the termination of this Interim Agreement. The Parties agree that each Subject Case being negotiated pursuant to Chapter 164, Florida Statutes, shall continue to be in the Section 164.1053, Florida Statutes, conflict assessment phase at least until the termination of this Interim Agreement.
  - b. **Joint Planning Agreement.** Throughout the term of this Interim Agreement, the Parties agree to direct its staff to consistently meet and work together to negotiate and draft the terms of a Joint Planning Agreement or similar resolution to issues arising out of the Subject Cases for presentation to the BOCC and the City Commission prior to the conclusion of the term of this Interim Agreement. The Joint Planning Agreement or similar resolution to issues arising out of the Subject Cases shall be guided by the principles and ideas found in Exhibit A and shall, at a minimum, address the following issues:
    - i. **Joint Planning Area.** The establishment of the Joint Planning Area which shall establish the geographical area that is subject to the Joint Planning Agreement or similar resolution to issues arising out of the Subject Cases.
    - ii. **Land Use Planning.** The establishment of joint land use policies, which shall include the approximate acreage and acceptable ranges of density or intensity of use, the coordination of any particular utility infrastructure needs, and the coordinated protection of natural resources such as significant uplands and wetlands.
    - iii. **Transportation Planning.** The establishment of joint transportation planning policies, which shall include:
      1. A joint Transportation Mobility Plan that includes: 1) agreed upon transportation projects that recognize the existing and planned roadway network within the Joint Planning Area to address future transportation system capacity needs and right-of-way reservation; 2) the coordination of interconnectivity to promote local travel; 3) the implementation of multi-modal considerations including requirements for multi-modal facilities, sidewalks, trails, and transit accommodations; and 4) the coordination of

assessment and expenditure of transportation fees and transportation related revenues, including, but not limited to, mobility fees.

2. Thresholds and procedures to transfer transportation infrastructure maintenance responsibilities between the Parties upon annexation.

- c. *Access to Wiley Property.* The City agrees not to approve any development which negatively impacts vehicular access to Tax Parcel Nos. 06975-001-000 and 07002-001-000 ("Wiley Property").

5. ***Entire Agreement; Amendments.*** This Interim Agreement represents the entire understanding and agreement between the Parties with respect to the subject matter hereof. No representations have been made, either express or implied by the Parties, other than those expressly set forth in this Interim Agreement. This Interim Agreement or any part hereof may not be changed, amended, waived, discharged, or terminated except by an instrument in writing signed by all Parties and executed with the same formality as this Interim Agreement, except as otherwise provided in this Interim Agreement.
6. ***Counterparts.*** This Interim Agreement may be executed in counterparts, each of which shall be deemed to be an original and need not be signed by more than one of the Parties and all of which shall constitute one and the same agreement. The Parties further agree that each Party shall execute and deliver all other appropriate supplemental agreements and other instruments, and take any other action necessary to make this Interim Agreement fully and legally effective, binding, and enforceable as between them and as against third parties.
7. ***Interpretation.*** This Interim Agreement shall be read and interpreted in such a manner as to give all provisions their ordinary and customary meaning, and all words, terms, and phrases not otherwise specifically defined by a capitalized term or otherwise shall have the same meaning and interpretation as customarily used among lay persons. The terms "hereby," "hereof," "herein," "hereto," "hereunder," and any similar terms refer to this Interim Agreement in its entirety and not solely to the particular section or paragraph in which the term is used. All words, terms, and phrases specifically defined by a capitalized term shall apply throughout this Interim Agreement in its entirety and not solely to the particular section or paragraph in which the term is used. In construing this Interim Agreement, the singular shall be held to include the plural, the plural shall include the singular, and the use of any gender shall include every other and all genders.
8. ***Construction; Headings.*** The Parties acknowledge that they participated in the negotiation and drafting of the terms of this Interim Agreement and acknowledge that no provision shall be strictly construed against one party or the other based solely on draftsmanship. The Parties have entered into this Interim Agreement without duress, coercion, or under undue influence of any kind, and are motivated by a desire to avoid the costs, time, and uncertainty associated with the Subject Cases and to arrive at a fair and reasonable agreement with regard to the Parties' disputes. The Parties acknowledge that they have been represented by counsel in connection with the negotiation of the terms of this Interim Agreement and that they enter into this Interim Agreement freely and voluntarily, and only after consultation with their respective counsel. All sections and descriptive headings in this Interim Agreement are inserted for convenience only, and shall neither affect the construction or interpretation hereof, nor add or subtract from the meaning of the contents of each section.

9. **Governing Law; Venue.** This Interim Agreement shall be construed, interpreted, enforced, and governed in accordance with the laws of the State of Florida. Venue for any action arising out of or related to this Interim Agreement shall be in Alachua County, Florida.
10. **Enforcement; Remedies.** The Parties shall have all equitable and legal remedies available under Florida law to enforce the terms and conditions of this Interim Agreement, and the terms of this Interim Agreement shall be specifically enforceable in court. In the event of any dispute hereunder or any action to interpret or enforce this Interim Agreement, any provision hereof, or any matter arising herefrom, the each party shall be responsible for its own attorneys' fees and costs incurred in enforcing its rights and remedies, whether incurred at the pre-trial, trial, or appellate levels, including any fees and costs incurred in determining the amount of awardable fees.
11. **Waiver of Jury Trial.** The Parties hereby knowingly, voluntarily, and intentionally waive any right to a jury trial with respect to any claims arising in connection with this Interim Agreement.
12. **Non-Waiver.** Failure by the Parties to insist upon the strict performance of any of the terms, conditions, or provisions of this Interim Agreement shall not be deemed to be a waiver of such terms, conditions, and provisions, and the Parties, notwithstanding such failure, shall have the right hereafter to insist upon the strict performance of any or all such terms and conditions of this Interim Agreement as set forth herein. Any Party's waiver of any breach of this Interim Agreement or forbearance from action shall not be a continuing waiver or a waiver of any other breach of this Interim Agreement.
13. **Sovereign Immunity.** Nothing in this Interim Agreement shall constitute a waiver by any party of its sovereign immunity or the provisions of Section 768.28, Florida Statutes.
14. **Severability.** If any part of this Interim Agreement is found invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect the other parts of this Interim Agreement if the rights and obligations of the Parties contained therein are not materially prejudiced and if the intentions of the Parties can continue to be effectuated. To that end, this Interim Agreement is declared severable.
15. **Disclaimer of Third Party Beneficiaries.** This Interim Agreement is solely for the benefit of the Parties and no right or cause of action shall accrue by reason hereof to or for the benefit of any third party. Nothing in this Interim Agreement, expressed or implied, is intended or shall be construed to confer upon or give any other third person or entity any right, remedy, or claim under or by reason of this Interim Agreement or any provisions or conditions hereof, other than as expressly stated herein.
16. **Purpose of this Interim Agreement; Not Establishing Precedent.** By entering into this Interim Agreement, the Parties do not admit any liability whatsoever to the other, or to any other person, arising out of any claims asserted in the Subject Cases, and expressly deny any and all such liability. The Parties acknowledge and agree that this Interim Agreement is not intended by any Party to be construed, and shall not be construed, as an admission by any Party of any liability or violation of any law, statute, ordinance, regulation, agreement, or other legal duty of any nature whatsoever. Rather, this Interim Agreement is to permit the Parties to negotiate a compromise of potential and disputed claims, involving both fact and law, and the Parties enter into this Interim Agreement in a spirit of cooperation for the purpose of staying the Subject Cases and in recognition of the desire

for the opportunity to negotiate the speedy and reasonable resolution of the Parties' disputes. The acceptance of proposals for purposes of this Interim Agreement is the first step in a mediated settlement process affected by many factual and legal issues and is not an endorsement of, and does not establish precedent for, the use of these proposals in any other circumstances.

- 17. Notices.** All notices and other communications required hereunder shall be in writing and shall be delivered personally, or by registered or certified mail, return receipt requested, postage prepaid, or by Federal Express or other nationally recognized overnight commercial delivery service, fees prepaid for next day delivery. Such notices shall be deemed to have been delivered: 1) upon delivery, if personally delivered; 2) upon the earlier of actual receipt or the third business day after mailing, if mailed by registered or certified United States mail, return receipt requested, postage prepaid; and 3) upon the earlier of actual receipt or the next business day if sent by Federal Express or other nationally recognized overnight commercial delivery service, if fees are prepaid for next day delivery. The addresses for delivery of such notices shall be as follows, except when such other address as any party hereto shall from time to time designate to the other party by notice in writing as herein provided:

a. To the County: Dr. Lee A. Niblock, County Manager  
Alachua County  
12 SE 1<sup>st</sup> Street  
Gainesville, Florida 32601

With a copy to: Michele L. Lieberman, County Attorney  
Alachua County  
12 SE 1<sup>st</sup> Street  
Gainesville, Florida 32601

b. To the City: Anthony Lyons, City Manager  
City of Gainesville  
200 E University Avenue  
Gainesville, Florida 32601

With a copy to: Nicolle Shalley, City Attorney  
City of Gainesville  
200 E University Avenue  
Gainesville, Florida 32601

- 18. Extensions.** The County Manager and the City Manager may extend through written agreement the term of this Interim Agreement for up to three additional months if, in the opinion of the County Manager and City Manager, this additional time will likely result in a Joint Planning Agreement or similar resolution to issues arising out of the Subject Cases which can be considered by the City and County governing bodies.

- 19. Recording.** Pursuant to Section 163.01(11), Florida Statutes, the County shall file a fully executed copy of this Agreement with the Clerk of the Circuit Court of Alachua County, Florida, for recording in the Official Records of Alachua County.

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Agreement on the respective dates beneath each signature.

**ALACHUA COUNTY:**

**ATTEST:**

\_\_\_\_\_  
Jesse K. Irby, II, Clerk

By: \_\_\_\_\_  
Ken Cornell, Chair  
Board of County Commissioners

Date: \_\_\_\_\_

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
Michele Lieberman, County Attorney

**CITY OF GAINESVILLE:**

**ATTEST:**

\_\_\_\_\_  
Kurt Lannon, Clerk of the Commission  
City of Gainesville

By: \_\_\_\_\_  
Lauren Poe, Mayor

Date: \_\_\_\_\_

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
Nicolle M. Shalley, City Attorney



**Exhibit A****City of Gainesville Annexation/Planning Issues  
County Staff Recommended Components of Settlement Agreement**

This document is intended to offer options for Alachua County and the City of Gainesville to pursue which may resolve several pending City of Gainesville Annexation and Comprehensive Plan challenges initiated by Alachua County. It is in the best interest of all County residents including those inside the City of Gainesville and the unincorporated area for the County and the City to pursue coordinated approaches to annexation, planning and infrastructure/service delivery inside the County's Urban Cluster. The County would like to implement a joint planning approach with the City of Gainesville for these areas as a primary tool to reach a long term resolution to these issues. Possible components of a potential settlement would address the specific components of the Finley Woods annexation as well as instituting a joint planning framework around the issues below.

**1. PLANNING AND ANNEXATION**

- a) **Planning Area:** Establish a joint planning area which would be recognized by the City and County as an area for future urban development and provision of urban services.
- b) **Land Use and Development Policies:** Create and agree upon general land use goals for the joint planning area (e.g. land use types, development pattern, and natural resource protection) to facilitate the transition from the County to the City over time.

**2. MOBILITY PLANNING**

- a) **Mobility Plan:** Recognition of a common Transportation Mobility Plan for the joint planning area, including recognition of the existing and planned roadway network within the Joint Planning Area for future transportation system capacity needs and right-of-way reservation.
- b) **Impact Fees/Mobility Fees:** Within a joint planning area, a common Mobility Fee should be collected by both jurisdictions to fund necessary transportation system capacity improvements within the joint planning area.
- c) **Interconnectivity:** Coordinate planning of local and collector street interconnections inside a joint planning area to promote local travel.
- d) **Multi-Modal Considerations:** Coordinate requirements for multi-modal facilities, sidewalks, and trails with consistent standards when addressing development impacts within a joint planning area; including provisions for transit accommodations consistent with current and planned transit services.

**3. ROAD MAINTENANCE AND OPERATIONS**

- a) **Local Option Fuel Taxes and other Local Funding Transportation Funding Sources:** Recognize the responsibilities of building and maintaining the transportation network, which includes all modes of transportation and the need to implement sustainable funding sources to meet those joint goals.
- b) **Determine thresholds at which point maintenance responsibilities and levels of service expectations may change between jurisdictions as annexation occurs in a joint planning area.**

**Exhibit A****4. REGIONAL TRANSIT**

- a) **Transit Planning:** Recognize transit as a regional transportation service and plan services and accompanying land uses accordingly.
- b) **Regional Funding of Transit:** Develop a regional funding strategy for transit services, recognizing all possible funding sources.

**5. FINLEY WOODS ANNEXATION-SPECIFIC ISSUES**

- a) **Enclave Issues:** The Finley Woods annexation results in the creation of an enclave, which is inconsistent with the requirements for voluntary annexation in Chapter 171.044, F.S. It is the County's desire to address the enclave issue.
- b) **Access to Wiley Parcels:** An access road is called for in the County approved PD Master Plan for Finley Woods, which would provide permanent functional access to the two parcels owned by Wiley. It is the County's desire for permanent functional access to be provided to the Wiley parcels coincident with the initial construction of any City-approved development plans for the areas north of SW 62<sup>nd</sup> Avenue. Until such time as the areas north of SW 62<sup>nd</sup> Avenue are developed, the developer should guarantee an interim ingress and egress that meets emergency vehicle access standards to and from the Wiley parcels from SW 62<sup>nd</sup> Avenue.
- c) **Coordination regarding western edge of parcel #07002-001-001 (owned by "WWB") omitted from City's annexation:** Several potential issues are created by the narrow strip of unincorporated land that extends north from SW 62<sup>nd</sup> Avenue to the Wiley property, including issues related to future land use, zoning, service delivery, and permitting.