



Legislation Text

File #: 080227., Version: 3

FIVE POINTS SPECIAL AREA PLAN (B)

ORDINANCE NO. 0-08-70; PETITION 89TCH-08 PB

An ordinance of the City of Gainesville, Florida, amending Chapter 30, Appendix A, Section 8, Exhibit A(f)(9) of the Land Development Code, relating to the prohibited uses within the Five Points Special Area Plan; by adding social services (MG-83), residences for destitute people, food distribution centers for the needy, dormitories, rooming houses and boarding houses (GN-702), rehabilitation centers, and social services homes or halfway houses to the list of prohibited uses; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

The City Commission adopt the proposed ordinance, as amended.

PLANNING AND DEVELOPMENT SERVICES DEPARTMENT STAFF REPORT

Plan East Gainesville (PEG) was a joint City/County planning initiative to stimulate and guide the physical and economic development of East Gainesville. Extensive public participation occurred during the development of PEG's Final Report. In February 2003, the final report of PEG was completed. On August 8, 2005, the City Commission implemented one of the recommendations of the PEG final report by establishing the Five Points Special Area Plan (SAP) Overlay Zoning District.

The Five Points SAP is less than 50 acres in size, including public road right-of-way. The area is located at the primary crossroads of East Gainesville. That is where University Avenue, Waldo Road, Williston Road, Hawthorne Road, and 15th Street come together. The Depot Avenue and Waldo Road Greenway rail-trails also come together in the Five Points area. The vision for Five Points, as articulated in PEG final report, is to create a vibrant urban area with a mix of shops, cafes, restaurants, offices, entertainment, and personal services.

On February 12, 2007, based on citizen concerns about a proposal to place a social service use within the Five Points SAP and how that would be inconsistent with PEG, the City Commission asked staff to review the potential to amend the Five Points SAP to prohibit or restrict social service uses.

Staff review indicated that the Five Points SAP could be amended to prohibit social service and rehabilitative service uses as necessary to carry out with the vision for Five Points. On April 23, 2007, the City Commission directed staff to process a Land Development Code amendment petition to add Rehabilitation Centers and Social Service Homes or Halfway Houses to the list of prohibited uses in the Five Points SAP. The City Plan Board heard the petition (50TCH-07 PB) on May 17, 2007. Consistent with staff's recommendation, the City Plan Board voted 6-0 to recommend that the City Commission approve the petition.

The ordinance for 50TCH-07 PB was initially scheduled for first reading on the January 14, 2008 City Commission agenda, but was withdrawn and continued for further review and consideration by staff. Staff requested that the item be withdrawn due to concerns that other uses which are similar to Rehabilitation Centers and Social Service Homes or Halfway Houses should be treated in the same manner, unless there is a rational basis for treating those uses differently (as is required by the Equal Protection Clause contained in the 14th Amendment to the United States Constitution). Regulations that do not treat similar uses in the same manner, and do not provide a rational basis for

the difference in treatment, are unlikely to withstand a legal challenge. Staff research indicated that other uses currently allowed in the Five Points SAP are similar to rehabilitation centers, and to social service homes or halfway houses, and should also be prohibited.

On June 23, 2008, the City Commission directed staff to process the subject land development code amendment (Petition 89TCH-08 PB) that added the following uses to the list of prohibited uses within the Five Points SAP: rehabilitation centers, social service homes or halfway houses, social services (MG-83), residences for destitute people, food distribution centers for the needy, membership organizations (MG-86), rooming houses and boarding houses (GN-702), and dormitories. The Plan Board heard this petition on July 17, 2008 and voted 5-1 to recommend that the City Commission approve this petition. On December 4, 2008, the City Commission approved the ordinance on first reading by a vote of 6-0. On December 18, 2008, the City Commission heard the ordinance on second reading and continued the matter, in order for staff to further analyze the issues of prohibiting places of religious assembly and other assembly uses.

Staff was initially concerned that the uses being prohibited may be considered "assembly uses" and therefore membership organizations, places of religious assembly, movie theaters, schools, and other such uses would have to be prohibited. Upon further research and analysis; however, staff is of the opinion that Rehabilitation Centers, Social service homes or halfway houses, Social services (MG-83), Residences for destitute people, Food distribution centers for the needy, Rooming houses and boarding houses (GN-702), and Dormitories are not assembly uses in that they are not a group of persons gathered for a common purpose (such as deliberation, worship or entertainment). Therefore, staff recommends removal of membership organizations from the list of prohibited uses.

The remaining uses recommended to be prohibited are not assembly uses and are in furtherance of the planning vision for the Five Points area.

CITY ATTORNEY MEMORANDUM

This ordinance was approved on first reading on December 4, 2008. This is the second and final reading of the ordinance.