

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

MARGARET H. CARR

Petitioner

and

FAYE L. WILLIAMS

Petitioner

v.

DOAH Case No. 22-003420

CITY OF GAINESVILLE, FLORIDA

Respondent

Comprehensive Plan Amendment 22-03ESR

_____ /

AMENDED PETITION FOR FORMAL ADMINISTRATIVE HEARING

Petitioners by and through their undersigned counsel, request a formal administrative hearing pursuant to Sections 163.3184, 120.569, 120.57, Florida Statutes, challenging the adoption by the City of Gainesville of its Comprehensive Plan Amendment No. 22-03ESR, Ordinance No. 211357, approving a text amendment to the Future Land Use Element to revise Policy 4.1.1 by eliminating the Single-Family Future Land Use Category, and approving an amendment to the Future Land Use Map to redesignate all areas from Single-Family to the Residential Low-Density Category (“Amendments”).

The Division of Administrative Hearings has direct jurisdiction over the subject matter and the parties hereto, pursuant to Sections 120.569, 120.57(1), and 163.3184(5)(a), Florida Statutes. Petitioners seek a determination that the Comprehensive Plan Amendment is not “in compliance” pursuant to Section 163.3184(1)(b), Florida Statutes. In support thereof, Petitioners allege as follows:

PARTIES

1. Petitioner MARGARET H. CARR owns property at 1721 NW 10th Avenue, Gainesville, Florida 32605, and resides in a single-family home at that address. For purposes of this proceeding, the address of the Petitioner is that of her undersigned attorney, Ralf Brookes Attorney 1217 E Cape Coral Parkway #107 Cape Coral, Florida 33904, RalfBrookes@gmail.com, (239) 910-5464 fax (866) 341-6086.

2. Petitioner Carr submitted oral objections to the plan amendment at the City Commission transmittal hearing on August 4, 2022, and adoption hearing on October 17, 2022. Petitioner also submitted oral comments in person at a hearing held on the proposed amendment by the City Plan Board, the Local Planning Agency of the City of Gainesville.

3. Petitioner Carr will be adversely affected by the Amendments as a consequence of an increase in planned residential density from eight units per acre to 15 units per acre and allowance of multi-family and accessory dwelling unit development within her established single-family neighborhood. Petitioner's substantial interests will be adversely affected, including negative impacts to neighborhood character and land use compatibility. The quiet use and enjoyment of the homestead real property that Petitioner Margaret H. Carr owns will be impaired by additional activity and noise. The Petitioner's homestead is within a mile of the University of Florida campus. The Amendments allow for multi-family development in the midst of established single-family homes and will result in increased traffic movement which will adversely affect her safety and make it difficult to enter and exit her property. Petitioner's quality of life will be diminished.

4. Petitioner FAYE L. WILLIAMS resides at 701 SW 2nd Terrace Gainesville, Florida 32601. For purposes of this proceeding, the address of the Petitioner is that of their undersigned attorney, Ralf Brookes Attorney 1217 E Cape Coral Parkway #107 Cape Coral, Florida 33904, RalfBrookes@gmail.com, (239) 910-5464 fax (866) 341-6086.
5. Petitioner Williams submitted oral objections to the plan amendment at the City Commission transmittal hearing on August 4, 2022.
6. Petitioner Williams will be adversely affected as a consequence of an increase in planned residential density in Gainesville's urban core. She lives in Porters Quarters, a historically African American neighborhood located between downtown Gainesville and the University of Florida. She lives within ½ mile of Depot Park, a new, large, popular City stormwater park, and 1 mile from the University of Florida. She has lived in this neighborhood much of her life. Nearby, several single-family neighborhoods, also historically African-American, will be adversely affected by this amendment due to their proximity to these urban amenities. Petitioner will be adversely affected by the anticipated increased traffic and noise, while public services, utilities, stormwater management and her quality of life will be diminished. In addition, Petitioner operates "M.A.M.A.'s Club," a non-profit dedicated to preserving Black heritage in East Gainesville. In this capacity, Petitioner, a social activist and community organizer, works with and often represents residents of Gainesville's historically African-American East Gainesville communities, including those that will be most adversely impacted by this Comprehensive Plan amendment.
7. To have standing to challenge a Comprehensive Plan amendment, a person must be an affected person as defined in section 163.3184(1)(a), Florida Statutes. Petitioners are affected persons within the meaning of the statute. The Petitioners are "affected persons" pursuant to Section 163.3184(1)(a), Florida Statutes.

8. The City of Gainesville is a local government that has the duty to adopt only comprehensive plan amendments that comply with the Community Planning Act pursuant to the requirements of Chapter 163, Part II, Florida Statutes. The City of Gainesville is a political subdivision of the State of Florida, with its principal place of business at 200 E. University Avenue, Gainesville FL 32601.
9. Pursuant to Section 163.3184(5)(a), Florida Statutes, the Petitioners have thirty (30) days from the October 17, 2022, date of adoption of the ordinance amending the Comprehensive Plan to file a petition for an administrative hearing challenging the City's action. This petition is timely filed on or before November 15, 2022, which is within 30 days of the adoption hearing (held on October 17, 2022) and receipt of the plan amendment by the State of Florida Department of Economic Opportunity (DEO).

STATEMENT OF ISSUE

10. Whether the City of Gainesville Comprehensive Plan Amendment No. 22-03ESR, Ordinance No. 211357, is "in compliance" as that term is defined in section 163.3184(1)(b), Florida Statutes.
11. Petitioners allege that the plan amendment is "not in compliance" because it is:
 - a) Not supported by, or is contrary to, the City's data and analysis, in violation of Section 163.3177(1)(f), Florida Statutes, as set forth in the material issues of fact and law below; and,
 - b) Inconsistent with Section 163.3177(1) and (2), Florida Statutes, because it is internally inconsistent with and violates existing provisions of the City of Gainesville Comprehensive Plan.

ISSUES OF DISPUTED MATERIAL FACTS

Effect of the Amendments

12. The Amendments revise Future Land Use Policy 4.1.1 by eliminating the Single-Family Future Land Use Category from the Comprehensive Plan. Single-Family is defined by the Comprehensive Plan as follows:

Single-Family (SF): up to 8 units per acre

This land use category shall allow single-family detached dwellings at densities up to 8 dwelling units per acre. The Single-Family land use category identifies those areas within the City that, due to topography, soil conditions, surrounding land uses and development patterns, are appropriate for single-family development. Land development regulations shall determine the performance measures and gradations of density. Land development regulations shall specify criteria for the siting of low-intensity residential facilities to accommodate special need populations and appropriate community-level institutional facilities such as places of religious assembly, public and private schools other than institutions of higher learning, and libraries. Land development regulations shall allow home occupations in conjunction with single-family dwellings under certain limitations.

13. The Amendments revise the Future Land Use Map to redesignate all areas from Single-Family to the Residential Low-Density Future Land Use Category. The Residential-Low Category allows almost twice the residential density and additional residential types including multi-family and accessory dwelling units, as follows:

Residential Low-Density (RL): up to 15 units per acre

This land use category shall allow dwellings at densities up to 15 units per acre. The Residential Low-Density land use category identifies those areas within the City that, due to topography, soil conditions, surrounding land uses and development patterns, are appropriate for single-family development, particularly the conservation of existing traditional low density neighborhoods, single-family attached and zero-lot line development, and small-scale multi-family development. Land development regulations shall determine gradations of density, specific uses and performance measures. Land development regulations shall specify criteria for the siting of low-intensity residential facilities to accommodate special need populations and appropriate community level institutional facilities

such as places of religious assembly, public and private schools other than institutions of higher learning, and libraries. Land development regulations shall allow home occupations; accessory units in conjunction with single-family dwellings; and bed-and-breakfast establishments within certain limitations.

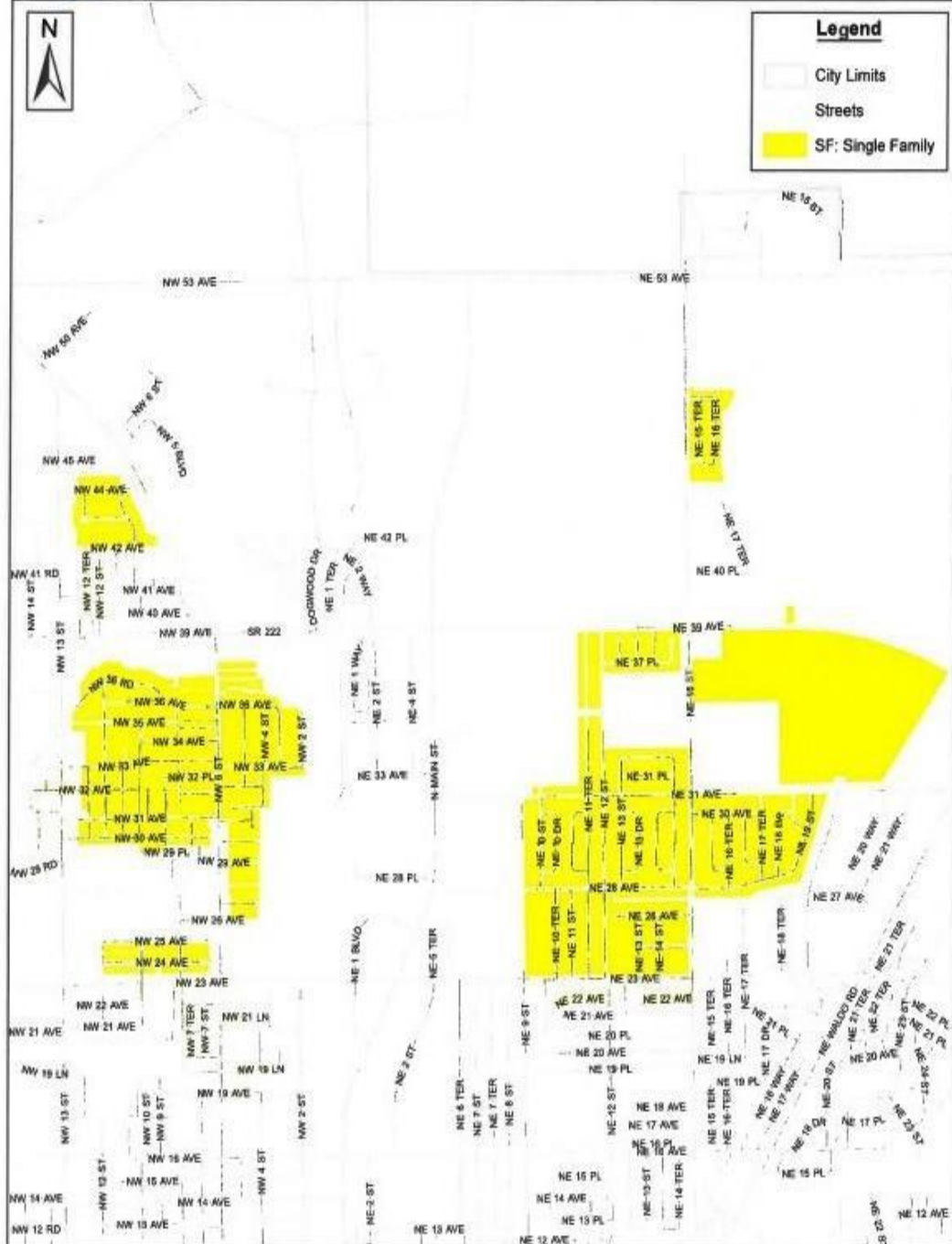
14. Although it is certainly very large, the exact geographic scale of the Single-Family future land use area affected by the Amendments is not absolutely clear. In 2010 the City adopted an Evaluation and Appraisal Report pursuant to Section 163.3191, Florida Statutes, which included data that Single-Family Future Land Use was assigned to 9,338 acres or about 25% of the City's total acres at that time. According to the Evaluation and Appraisal Report, 2,446 acres or about 23.4%, of Single-Family future land use consisted of vacant, developable land area. The City's Exclusionary Zoning & Inclusionary Zoning Study identified an estimated 8,438 acres in single-family use; however, that estimate is based on the extent of single-family residential zoning classifications.

15. However, it is clear that Single-Family future land use applies to a large, irregular, non-contiguous area with varying future land uses and development patterns adjacent and in proximity. There is a wide array of circumstances that must be taken into account in relation to an increase in residential density from eight to 15 units per acre and allowance of multi-family and accessory dwelling unit development including land use compatibility, public facility availability, extent of vacant land, areas susceptible to redevelopment, market pressures including demand for student housing, and socio-economic conditions. Ordinance No. 211357 included Exhibits displaying the areas subject to the Amendments as follows:



Q2 Existing Single Family (SF) Land Use

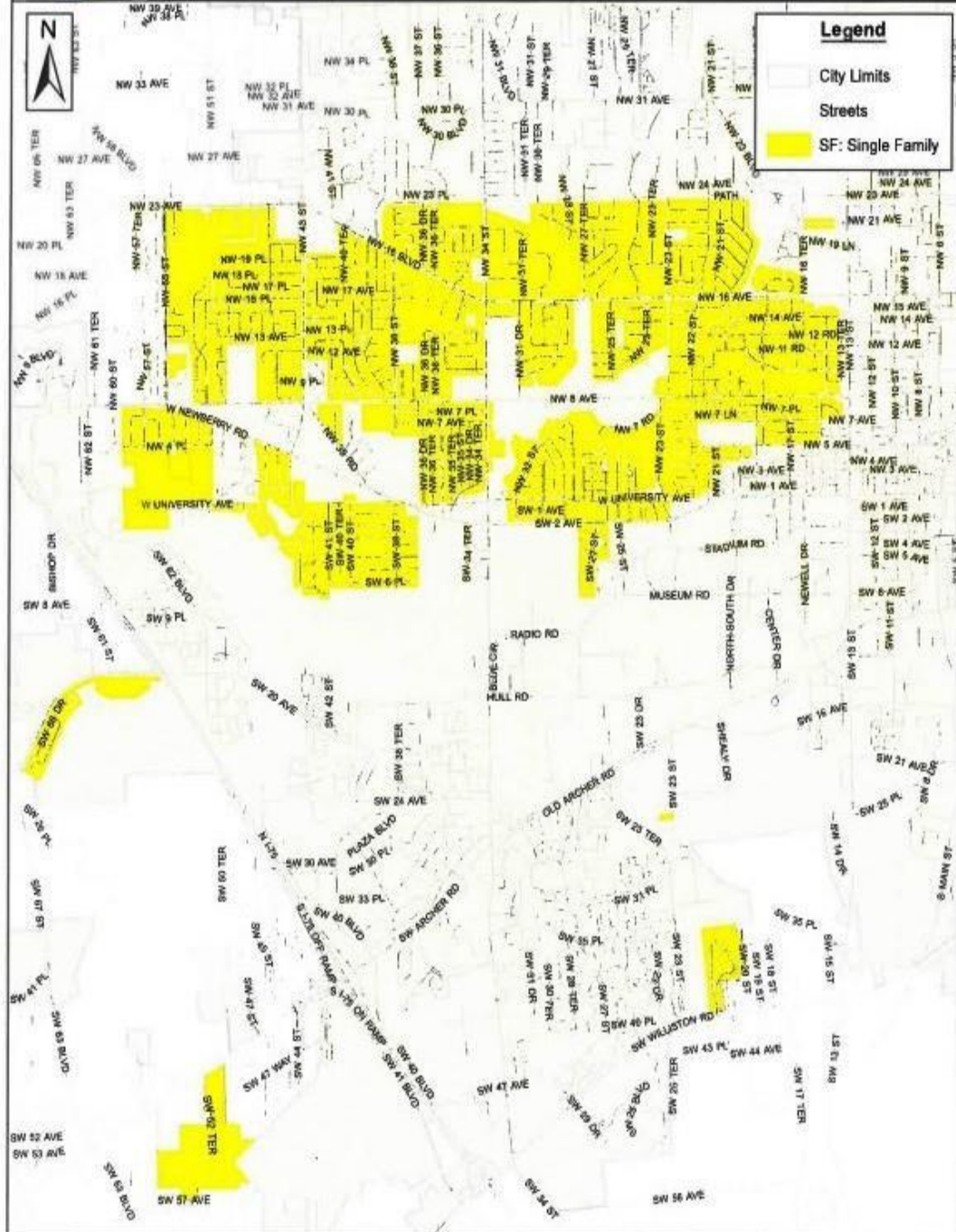
June 2022





Q3 Existing Single Family (SF) Land Use

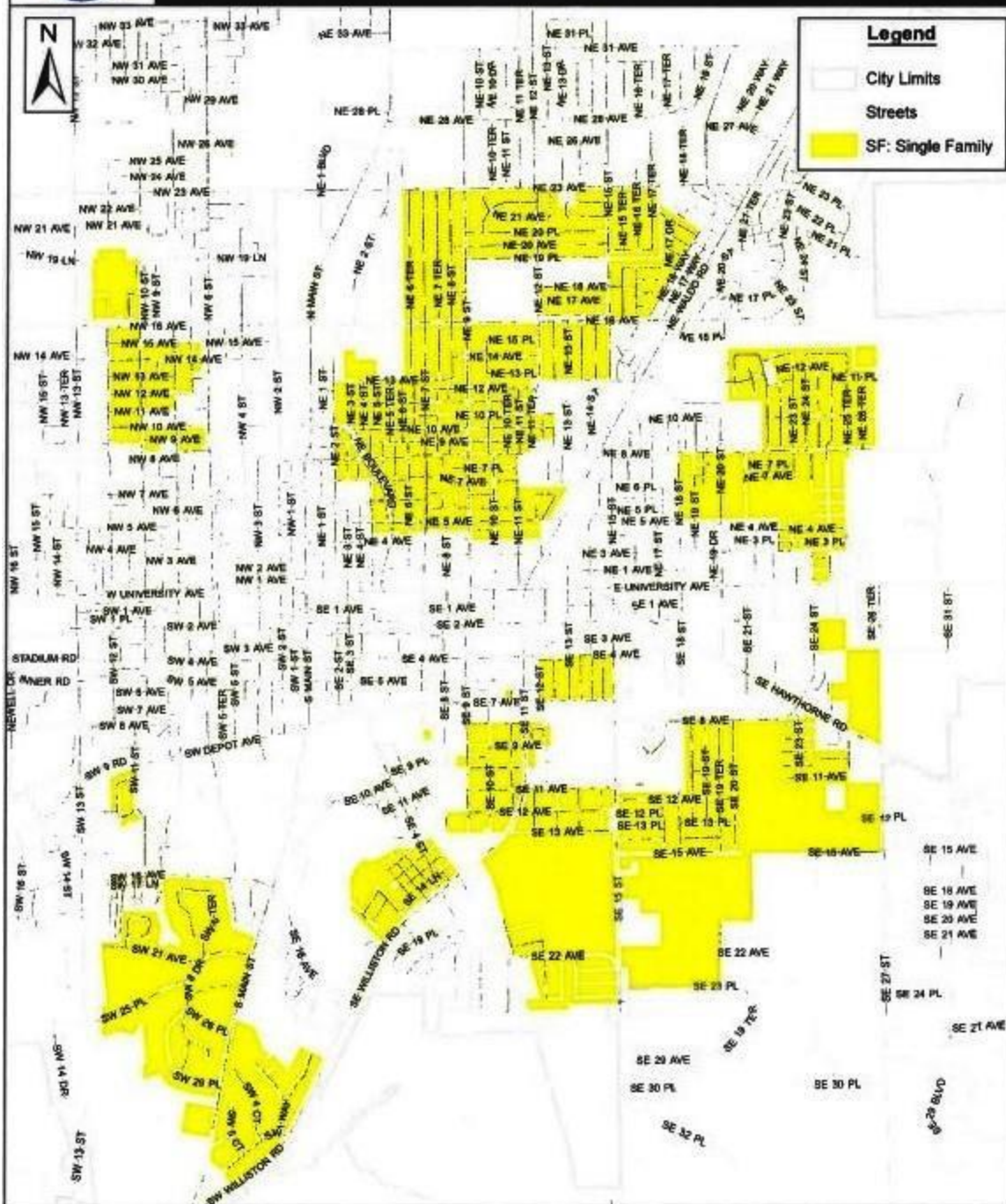
June 2022





Q4 Existing Single Family (SF) Land Use

June 2022



16. The Petition to amend the Comprehensive Plan was considered by the City of Gainesville Plan Board on June 6, 2022. The agenda item was summarized as follows:

Petition LD22-000038 TCH. City of Gainesville, (Applicant) requests to amend the City of Gainesville Comprehensive Plan to revise the Single Family (SF) land use category to rename the category as “Neighborhood Residential” and amend the description of the land use category.

At this stage the staff recommendation was to rename and broaden the Single-Family Category to also allow multi-family development while maintaining the limitation of up to eight dwelling units per acre. The Plan Board recommended to the City Commission that it adopt the text revisions as described at its hearing and that no change be made to the Future Land Use Map.

17. The City Commission conducted a hearing on August 4, 2022, and at First Reading determined it appropriate to send a proposed amendment for review under the State Expedited Review Process pursuant to Section 163.3184(3), Florida Statutes. The Agenda Package included two versions of the draft ordinance, titled No. 211357A and No. 211357. The former would revise Future Land Use Policy 4.1.1 in accord with the Plan Board recommendation; however, the City Commission voted to transmit the alternative amendment which eliminated the Single-Family Category altogether and changed the land use on all land designated Single-Family to Residential Low-Density, allowing up to 15 units per acre and multi-family and accessory dwelling unit development.

18. On October 17, 2022, the City Commission adopted Ordinance No. 211357 amending the Comprehensive Plan in a manner consistent with its action at First Reading to eliminate the Single-Family Category and change the future land use to Residential Low-Density.

19. The City’s Comprehensive Plan amendment was accompanied by extensive changes to the Zoning Ordinance and Atlas to consolidate residential districts and enable higher

residential density, and amendments to the Land Development Code to revise site development standards and occupancy limitations.

20. The three-ordinance adoption process was controversial, marked by uncertainty about the detail of the proposals under consideration, and was consummated by a 4 – 3 vote by the City Commission. The Comprehensive Plan, Zoning and Land Development Code amendments were the subject of extensive public opposition, petitions were entered into the record signed by more than 4,000 individuals. The City Commission’s action disregarded the recommendations of the Plan Board, Historic Preservation Board and Affordable Housing Advisory Committee.

Review Comments by State Agencies and Alachua County

21. As required by the State Expedited Review Process, the City of Gainesville transmitted the proposed amendments to state and regional agencies, and the county, for review. Significant, adverse comments were issued by the Florida Department of Economic Opportunity (“DEO”), the Florida Department of Transportation (“FDOT”), and Alachua County.
22. In its letter of September 8, 2022, DEO identified adverse impacts to affordable housing which it declared an important state resource. The agency determined the proposed amendment is internally inconsistent with the City’s Comprehensive Plan including Housing Element Policies 1.1.5 and 3.1.4 and issued extensive comments on adverse impacts to affordable housing including that the amendment “*...is of such a manner as to adversely impact the provision of affordable housing for all current and anticipated future residents...*”.

Additionally, DEO commented that the City did not adequately identify the magnitude of the impact of increasing density from eight units per acre to 15 units per acre on every parcel currently designated Single-Family on public facilities such as transportation, schools, potable water, wastewater, and stormwater. DEO recommended that the City of Gainesville withdraw the amendment.

23. FDOT issued a letter on September 2, 2022, stating that:

Based on FDOT's analysis, the proposed land use amendment could add up to 274,500 daily trips to the transportation network. The affected parcels are also spread throughout the City of Gainesville, potentially impacting every State Highway System (SHS) road segment. Therefore, it is expected that SHS could be significantly and adversely impacted by the proposed Comprehensive Plan Amendment.

The agency recommended a comprehensive assessment of the transportation impacts of the amendment to identify segments of the State Highway System that will adversely impacted and a mitigation plan.

24. Alachua County commented on the City of Gainesville's proposed Comprehensive Plan Amendment in an August 26, 2022, letter that *"...the County is concerned about the potential for widespread impacts that could result from this amendment, and that these impacts have not been identified or considered as part of the supporting data and analysis for the amendment."*

Alachua County determined that the City has not provided data and analysis on the full extent of potential impacts including how the amendment would impact land use compatibility with unincorporated Alachua County. Additionally, that no data and analysis has been provided on the need for publicly funded infrastructure, facilities, and services, some of which are owned, operated and maintained by Alachua County.

The Comprehensive Plan

25. The City of Gainesville's Comprehensive Plan is based on outdated information and warrants a thorough update. The plan was last fully assessed through an Evaluation and Appraisal Report in 2010. Subsequent to this assessment the Comprehensive Plan was updated in 2013, producing a plan for the 2013 - 2023 time period. Therefore, it has been more than 12 years since the last full assessment and more than nine years since the last major update.
26. As one example, the Goals, Objectives and Policies of the Housing Element were last updated on October 12, 2013. The Housing Element Data and Analysis Report posted on the City's website is dated March 4, 2002.
27. While a major plan update has been deferred, the Comprehensive Plan has been amended 53 times since 2013 including 27 Small Scale Future Land Use Map amendments.
28. Implementation of the Comprehensive Plan has been incomplete. For example, Future Land Use Policy 2.1.1.c requires an inventory of potential infill and redevelopment sites and a strategy for reuse of the sites; however, that inventory and strategy has not been presented. Also, Housing Policy 3.1.8 directs the City to update the data and analysis section of the Housing Element no later than 18 months after publication of the 2010 US Census housing data yet the data and analysis affixed to the Comprehensive Plan is dated 2002. The 2020 US Census housing data is available.
29. The incomplete implementation of the Comprehensive Plan renders the inadequate data and analysis for the Amendments still more problematic.
30. Single-Family is one of 14 Future Land Use Categories allowing for residential development under Future Land Use Policy 4.1.1. The categories establish a continuum of residential densities and residential unit types, each category with its own role, as follows:

Future Land Use Category	Residential Density (Units per Acre)	Residential Types
Single-Family	Up to 8	<ul style="list-style-type: none"> ▪ Single-family detached ▪ Facilities to accommodate special needs populations
Residential Low-Density	Up to 15	<ul style="list-style-type: none"> ▪ Single-family detached ▪ Accessory units in conjunction with single-family dwellings ▪ Small-scale multi-family
Residential Medium-Density	8 - 30	<ul style="list-style-type: none"> ▪ Single-family ▪ Multi-family ▪ Facilities to accommodate special needs populations
Residential High-Density	8 – 100	<ul style="list-style-type: none"> ▪ Single-family ▪ Multi-family ▪ Facilities to accommodate special needs populations
Mixed-Use Residential	Up to 75	<ul style="list-style-type: none"> ▪ Residential
Mixed-Use Office/Residential	Up to 20	<ul style="list-style-type: none"> ▪ Residential
Mixed-Use Low-Intensity	8 - 30	<ul style="list-style-type: none"> ▪ Single-family ▪ Duplex ▪ Townhouses ▪ Accessory dwelling units ▪ Group homes ▪ Multi-family
Mixed-Use Medium-Intensity	12 – 30	<ul style="list-style-type: none"> ▪ Residential
Urban Mixed-Use	Up to 60	<ul style="list-style-type: none"> ▪ Residential
Urban Mixed-Use High	10 – 100	<ul style="list-style-type: none"> ▪ Residential
Urban Core	Up to 175	<ul style="list-style-type: none"> ▪ Residential
Office	Up to 20	<ul style="list-style-type: none"> ▪ Residential
Conservation	Up to 0.2	<ul style="list-style-type: none"> ▪ Single-family
Agriculture	Up to 0.2	<ul style="list-style-type: none"> ▪ Single-family

Data and Analysis

31. The City of Gainesville identified references and data in support of the Amendments that consist of various articles from around the country addressing housing supply, affordable housing, exclusionary zoning, and related matters. The reference material presents background information not specific to the City of Gainesville or the Amendments.

32. The primary data and analysis pertaining to the Amendment includes:

- a) A review memo from the City of Gainesville Department of Sustainable Development dated June 21, 2022;
- b) City of Gainesville Exclusionary Zoning & Inclusionary Zoning Study, HR&A Advisors, December 2021; and,
- c) City of Gainesville 2022 Affordable Housing Framework.

33. The staff review memo presents plan amendment options to the City Commission and an inadequate, minimalistic analysis of the review factors for Future Land Use Map amendments required by Future Land Use Policy 4.1.3. The staff memo includes only high-level observations about the land area subject to the amendment and fails to provide relevant and appropriate data and analysis for a Future Land Use Map amendment that increases residential density from eight to 15 units per acre over a geographically fragmented and diverse area of about 9,338 acres. The grossly inadequate level of data and analysis stands in stark contrast to the more detailed staff review of previous Small Scale Future Land Use Map amendments.

34. The Exclusionary Zoning & Inclusionary Zoning Study, dated December 2021, is a central source document for the Amendments although the study does not recommend specific amendments to the Comprehensive Plan, or the Amendments as adopted by the City of Gainesville in particular. The study, notated “DRAFT FOR DISCUSSION ONLY”, includes findings that:

- *Student renters are the primary beneficiaries of new rental housing development in Gainesville, which makes it more difficult for non-students to access such housing.*
- *Student renters make up 36% of the total population but comprise 50% of the population that lives in housing built after 2000.*

- *Nearly a third of Gainesville’s population is between the ages of 18 to 24, illustrating the significant student population in schools such as University of Florida.*
- *36% of all rental units in Gainesville exclusively serve or cater to students.*

The study presents generalized policy recommendations including that the City of Gainesville require a set-aside of 10% of units affordable to households earning 80% of area median income or in the alternative a fee in lieu of. However, the City adopted no such requirement as part of the Amendments.

The study recommended that the City complete an in-depth land use analysis to consider changes to exclusionary land use controls. However, the City adopted the Amendments without an in-depth land use analysis.

35. The 2022 Affordable Housing Framework report, prepared by the Office of the City Manager, provides a bleak assessment of affordable housing and identifies tools available to address the compelling need. However, the report does not recommend particular changes to future land use or provide data and analysis that specifically supports the Amendments. It does though further illuminate the need to update the Housing Element and overall Comprehensive Plan.

Specific Statutes Petitioners Contend Render Plan Amendment Not in Compliance

Disputed Issues of Ultimate Fact and Law

Data and Analysis

36. Section 163.3177(1)(f), Florida Statutes, requires that comprehensive plan amendments must be based on relevant and appropriate data and analysis and react to the data in an appropriate way and to the extent necessary indicated by the data. The Amendments are not based on relevant and appropriate data and analysis.

37. Data and analysis deficiencies include:

- a) Failure to evaluate the role of the Single-Family Future Land Use Category in the context of the continuum of the 14 Future Land Use Categories which allow residential development. By eliminating the Single-Family Category, the plan weakens protection of existing, traditional neighborhoods in regard to compatibility and introduces a lack of predictability about the density of development to be expected for the purpose of planning for public facilities and services.
- b) Failure to evaluate the need for additional residential development potential, and residential development at a higher density, in the context of available residential potential in existing Future Land Use Categories.
- c) Failure to evaluate the character of lands in the Single-Family Category, on an area-by-area and neighborhood-by-neighborhood basis, regarding the extent of existing residential development, areas susceptible to redevelopment, extent of vacant lands, neighborhood character, land use compatibility, conditions and trends, socio-economic status, and development pressures including demand for student housing.
- d) The void of appropriately detailed information about the existing Single-Family area makes it impossible to understand and appropriately respond to potential impacts on

land use compatibility, protection of neighborhood character, and potential spread of student housing.

- e) The Amendments are not supported by relevant and appropriate data and analysis that demonstrate the increase in residential density and allowance of multi-family and accessory dwelling unit development will promote and not hinder affordable housing. The Amendments do not require affordable housing, and instead open opportunities for student housing in single-family areas and displacement in lower income neighborhoods.
- f) The Amendments are not supported by data and analysis regarding the potential impacts of higher residential densities on public facilities and to what extent facilities would need to be expanded to accommodate additional development including transportation and mobility, water supply, wastewater treatment, and drainage facilities, as well as police, fire, and emergency medical services.
- g) The Amendments do not take into account, and are not based on relevant and appropriate data and analysis, in regard to land use compatibility and impacts to public facilities and services in relation to lands within unincorporated Alachua County which are adjacent or in proximity.
- h) The Amendments do not respond appropriately and to the extent necessary in regard to the need for affordable housing. Instead of a comprehensive update to the Housing Element, and a balanced system for the delivery of affordable housing, the Amendments simply increase residential density in established single-family areas under a leap of faith that affordable housing will result.

38. Section 163.3177(6)(a)2, Florida Statutes, establishes the basis for the future land use plan and plan amendments. The statutory requirements which follow have not been satisfied:

2. The future land use plan and plan amendments shall be based upon surveys, studies, and data regarding the area, as applicable, including:

- a. The amount of land required to accommodate anticipated growth.*
- b. The projected permanent and seasonal population of the area.*
- c. The character of undeveloped land.*
- d. The availability of water supplies, public facilities, and services.*
- e. The need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community.*

39. Additionally, Future Land Use Policy 4.1.3 establishes review criteria which have not been satisfied, to wit:

Policy 4.1.3 The City will review proposed changes to the Future Land Use Map by considering factors such as, but not limited to, the following:

- 1. Consistency with the Comprehensive Plan;*
- 2. Compatibility and surrounding land uses;*
- 3. Environmental impacts and constraints;*
- 4. Support for urban infill and/or redevelopment;*
- 5. Impacts on affordable housing;*
- 6. Impacts on the transportation system;*
- 7. An analysis of the availability of facilities and services;*
- 8. Need for the additional acreage in the proposed future land use category;*
- 9. Discouragement of urban sprawl as defined in Section 163.3164, F.S., and consistent with the requirements of Subsection 163.3177(6)(a)9., F.S.;*
- 10. Need for job creation, capital investment, and economic development to strengthen and diversify the City's economy; and*
- 11. Need to modify land use categories and development patterns within antiquated subdivisions as defined in Section 163.3164, F.S.*

40. The City of Gainesville Land Development Code includes criteria for land use changes which have not been met through relevant and appropriate data and analysis, as follows:

Sec. 30-3.13. - Land use change criteria.

Applications to change the land use category for a property by amending the future land use map of the Comprehensive Plan shall be reviewed according to the following criteria:

A. The goals, objectives, and policies of the Comprehensive Plan.

B. The need for additional land in the proposed land use category based on the projected population of the City and the relative availability of the current and proposed land use categories.

C. The proposed land use category of the property in relation to surrounding properties and other similar properties.

D. The potential impact of the land use change on adopted level of service standards.

Internal Consistency

41. Section 163.3177(2), Florida Statutes, requires that the coordination of the several elements of the comprehensive plan shall be a major objective of the planning process and that the several elements of the comprehensive plan shall be consistent. However, the Amendment is not internally consistent with the City of Gainesville Comprehensive Plan including the following goals, objectives, and policies:

- i) Future Land Use Policy 2.1.2 calls upon the City to accommodate increases in student enrollment outside of single-family neighborhoods. In conflict, the Amendments promote the inclusion of student housing within single-family neighborhoods.
- j) Future Land Use Goal 4 provides that the Future Land Use Element shall foster the unique character of the City by directing growth and redevelopment in a manner that protects neighborhoods. The Amendments fail to protect neighborhoods and foster the unique character of the City.

- k) Future Land Use Objective 4.1 requires that the City establish land use categories that allow sufficient acreage for residential, commercial, mixed-use, office, industrial, education, agricultural, recreation, conservation, public facility, and institutional uses at appropriate locations to meet the needs of the projected population. The Amendments do not ensure appropriate locations for single-family areas necessary to meet population needs.

- l) Future Land Use Policy 4.1.3 establishes review criteria for changes to the Future Land Use Map which have not been satisfied:

Policy 4.1.3 The City will review proposed changes to the Future Land Use Map by considering factors such as, but not limited to, the following:

1. Consistency with the Comprehensive Plan;
2. Compatibility and surrounding land uses;
3. Environmental impacts and constraints;
4. Support for urban infill and/or redevelopment;
5. Impacts on affordable housing;
6. Impacts on the transportation system;
7. An analysis of the availability of facilities and services;
8. Need for the additional acreage in the proposed future land use category;
9. Discouragement of urban sprawl as defined in Section 163.3164, F.S., and consistent with the requirements of Subsection 163.3177(6)(a)9., F.S.;
10. Need for job creation, capital investment, and economic development to strengthen and diversify the City's economy; and
11. Need to modify land use categories and development patterns within antiquated subdivisions as defined in Section 163.3164, F.S.

- m) Future Land Use Objective 4.2 requires that the City protect low intensity uses from the negative impacts of high intensity uses. The Amendments fail to protect low intensity uses by almost doubling the residential density allowed in the affected areas.

- n) Future Land Use Policy 4.2.1 requires that the City provide protection for adjacent residential areas and low intensity uses from the impacts of high intensity uses. The Amendments fail to protect adjacent residential areas from the intrusion of higher intensity land uses.
- o) Future Land Use Objective 5.4 requires that the City partner with neighborhoods to facilitate effective communication between the neighborhood residents and the City and develop specific actions to address neighborhood identified goals and improvements. The City has not partnered with its nearly 100 neighborhoods, or communicated effectively with them, in regard to the Amendments.
- p) Under Housing Goal 1 the City is to assist the private and non-profit housing sectors in providing housing for low-income, very low-income, and extremely low-income households. The Amendments establish no requirement to provide affordable housing at any level.
- q) Housing Policy 3.1.4 requires that the City help neighborhoods develop plans that address neighborhood character, stability, housing, safety, infrastructure, and historic resources. The Amendments conflict with these purposes.
- r) Housing Policy 3.1.5 requires that the City facilitate communication and dialogue with neighborhood groups regarding proposed developments in and around their neighborhoods. In developing and adopting this Amendments, the City has not done this.
- s) Transportation Policy 7.1.7 requires that the land uses shown on the Future Land Use Map series shall be coordinated with the transportation network. The Amendments do not respond to this policy requirement and are therefore inconsistent with it.
- t) Transportation Objective 9.2 requires that the City eliminate incompatible land uses within airport noise contours. The Amendments would increase residential density within the identified airport noise contour.

Relief Requested

42. Petitioners respectfully request that:

- u) A formal hearing be conducted pursuant to Chapter 163 and Chapter 120 Florida Statutes;
- v) The Administrative Law Judge issue a Recommended Order finding the Plan Amendment "not in compliance" with Florida Statutes Chapter 163;
- w) That the Administration Commission enter a Final Order determining that the Plan Amendment is not "in compliance" with Florida Statutes Chapter 163; and
- x) Such other relief be granted as may be fair, just, and appropriate under the circumstances.

/s/ Ralf Brookes Attorney

RALF BROOKES

ATTORNEY

Attorney for Petitioners

Florida Bar No. 0778362

1217 E Cape Coral Parkway #107

Cape Coral, Florida 33904

Telephone (239) 910-5464

Facsimile (866) 341-6086

RalfBrookes@gmail.com

CERTIFICATE OF FILING & SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed and served on Monday
November 9, 2022, to the following:

DIVISION OF ADMINISTRATIVE HEARINGS, STATE OF FLORIDA

Via E-ALJ Electronic Filing

CITY ATTORNEY

Daniel Michael Nee
City Of Gainesville City Attorney's Ofc.
PO Box 490 Station 46
Gainesville, FL 32627-0490
Office: 352-334-5011
Cell: 352-334-5011
Fax: 352-334-2229
needm@cityofgainesville.org

DEPARTMENT OF ECONOMIC OPPORTUNITY, STATE OF FLORIDA Via

Email or fax (850) 921-3223

/s/ Ralf Brookes Attorney
RALF BROOKES
ATTORNEY
Florida Bar No. 0778362
Ralf Brookes Attorney
1217 E Cape Coral Parkway #107
Cape Coral, Florida 33904
Telephone (239) 910-5464
Facsimile (866) 341-6086
RalfBrookes@gmail.com