

LEGISLATIVE #

211460A

ORDINANCE NO. 211460

An ordinance of the City of Gainesville, Florida, amending the Zoning Map Atlas by rezoning certain property generally located north of U.S. 441 and both east and west of SR 121, as more specifically described in this ordinance, from Alachua County Agriculture (A) district to City of Gainesville Planned Development District (PD); adopting a PD report with land development regulations; providing directions to the City Manager; providing a severability clause; providing a repealing clause; and providing an effective date.

WHEREAS, Section 163.3167, Florida Statutes, requires the City of Gainesville to maintain a Comprehensive Plan to guide the future development and growth of the city; and

WHEREAS, the City of Gainesville Comprehensive Plan, as required by Section 163.3177(1), Florida Statutes, must provide the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the city as reflected by the community's commitments to implement such plan; and

WHEREAS, Section 163.3177(6), Florida Statutes, requires the City of Gainesville Comprehensive Plan to include a Future Land Use Element with a Future Land Use Map that designates the future general distribution, location, and extent of the uses of land for residential, commercial, industry, agriculture, recreation, conservation, education, public facilities, and other categories of the public and private uses of land, with the goals of protecting natural and historic resources, providing for the compatibility of adjacent land uses, and discouraging the proliferation of urban sprawl; and

WHEREAS, the City of Gainesville is required by Section 163.3202, Florida Statutes, to adopt or amend and enforce land development regulations that are consistent with and implement the Comprehensive Plan and that are combined and compiled into a single land development code for the city; and

28 **WHEREAS**, the City of Gainesville Land Development Code (Chapter 30 of the City of Gainesville
29 Code of Ordinances) establishes zoning districts to implement the Comprehensive Plan and land
30 development regulations on specific classifications of land within the city; and

31 **WHEREAS**, Planned Development District (PD) zoning is a voluntary method for landowners or
32 developers to submit unique proposals that are not provided for or otherwise achievable in the
33 zoning districts established by the City of Gainesville Land Development Code; and

34 **WHEREAS**, this ordinance, which was noticed as required by law, will amend the Zoning Map
35 Atlas by rezoning the property that is the subject of this ordinance to Planned Development
36 District (PD) zoning; and

37 **WHEREAS**, on April 24, 1992, the City adopted Ordinance No. 3768 and annexed into the City
38 from Alachua County approximately 460 acres of property generally located north of the
39 intersection of U.S. 441 and SR 121; and

40 **WHEREAS**, on February 12, 2007, the City adopted Ordinance No. 060731 and annexed into the
41 City from Alachua County approximately 1,318 acres of property generally located north of the
42 intersection of U.S. 441 and SR 121; and

43 **WHEREAS**, Weyerhaeuser is the successor-in-interest by merger to the approximately 1,778
44 acres of land annexed into the City by Ordinance Nos. 3768 and 060731; and

45 **WHEREAS**, on January 1, 2009, the City adopted Ordinance No. 070447 and assigned certain land
46 use designations to the 1,778 acres of property annexed into the City by Ordinance Nos. 3768
47 and 060731, and provided certain conditions including a requirement that the property owner
48 seek Planned Development District (PD) zoning on approximately 744 acres of property lying
49 below a certain phase line of the total 1,778-acre property; and

50 **WHEREAS**, the property that is the subject of this ordinance is the approximately 744-acre
51 portion of the 1,778-acre property that lies below the phase line established by Ordinance No.
52 070447; and

53 **WHEREAS**, to-date and since the approximately 1,778 acres of property was annexed into the
54 City by Ordinance Nos. 3768 and 060731, the City has not assigned City zoning to any portion of
55 the property and therefore the property’s zoning remains Alachua County Agriculture which was
56 assigned by Alachua County prior to annexation; and

57 **WHEREAS**, in 2017, Weyerhaeuser submitted to the City a rezoning application to rezone all of
58 the approximately 744-acre subject property in accordance with the City’s 2009 land use
59 Ordinance No. 070447; and

60 **WHEREAS**, on December 5, 2019, the City Commission held a quasi-judicial hearing and voted to
61 deny Weyerhaeuser’s rezoning application (“City Commission Order”); and

62 **WHEREAS**, on June 3, 2021, and as amended on September 1, 2021, Weyerhaeuser filed in the
63 Eighth Judicial Circuit Court of Alachua County, Florida, a Petition for Writ of Certiorari to appeal
64 the City Commission Order (Case No. 01-2021-AP-0003); and

65 **WHEREAS**, on June 4, 2021, and as amended on September 28, 2021, Weyerhaeuser filed in the
66 Eighth Judicial Circuit Court of Alachua County, Florida, a Complaint for Declaratory Judgment
67 and Injunctive Relief pursuant to Section 163.3215, Florida Statutes, challenging the City
68 Commission Order (Case No. 2021-CA-001533); and

69 **WHEREAS**, throughout the ongoing litigation, which is costly and resource intensive for both
70 parties, the City and Weyerhaeuser have continued communications seeking a mutually-
71 beneficial solution as it relates to the City’s land use and zoning regulation of the subject
72 property; and

73 **WHEREAS**, this ordinance, which was noticed as required by law, will amend the Zoning Map
74 Atlas by rezoning the property that is the subject of this ordinance to Planned Development
75 District (PD) zoning and, together with the companion land use ordinance, represents the
76 mutually-beneficial solution agreed upon by both the City and Weyerhaeuser and will hereby
77 settle and terminate the ongoing litigation in both Case No. 01-2021-AP-0003 and Case No. 2021-
78 CA-001533; and

79 **WHEREAS**, accordingly this ordinance, together with the companion land use ordinance, is
80 consistent with Chapter 163, Florida Statutes, the City of Gainesville Comprehensive Plan, and
81 the City of Gainesville Land Development Code; and

82 **WHEREAS**, the City Plan Board, which acts pursuant to the authority granted in Section 4.02 of
83 the Charter Laws of the City of Gainesville and which acts as the Local Planning Agency pursuant
84 to Section 163.3174, Florida Statutes, held a public hearing on September 22, 2022, and voted to
85 make a recommendation on the subject of this ordinance; and

86 **WHEREAS**, at least ten days' notice has been given once by publication in a newspaper of general
87 circulation notifying the public of this proposed ordinance and of public hearings to be held by
88 the City Commission; and

89 **WHEREAS**, public hearings were held pursuant to the notice described above at which hearings
90 the parties in interest and all others had an opportunity to be and were, in fact, heard; and

91 **WHEREAS**, the City Commission finds that the rezoning of the subject property will be consistent
92 with the City of Gainesville Comprehensive Plan when the amendment to the Comprehensive
93 Plan adopted by Ordinance No. 211459 becomes effective as provided therein.

94 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE,**
95 **FLORIDA:**

96 **SECTION 1.** The Zoning Map Atlas of the City of Gainesville is amended by rezoning the
97 following property from Alachua County Agriculture (A) district to City of Gainesville Planned
98 Development District (PD):

99 See legal description attached as **Exhibit A** and made a part hereof as if set forth
100 in full. The location of the property is shown on **Exhibit B** for visual reference. In
101 the event of conflict or inconsistency, **Exhibit A** will prevail over **Exhibit B**.

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103 **SECTION 2.** The use and development of the property described in Section 1 of this ordinance
104 must be consistent with the City of Gainesville Comprehensive Plan and will be regulated by the
105 PD Report, attached to this ordinance as **Exhibit C** and made a part hereof as if set forth in full,
106 and any applicable regulations in the City's Land Development Code. In the event of conflict or
107 inconsistency, the order of regulatory precedence is as follows, with number 1 taking precedence
108 over number 2 and so on: 1) the City's Comprehensive Plan; 2) **Exhibit C**; and 3) the City's Land
109 Development Code.

110 **SECTION 3.** In accordance with the requirements of the City's Land Development Code, the
111 property described in Section 1 of this ordinance has certain areas designated as Conservation
112 Management Areas (CMAs). The CMAs will be regulated by the Conservation Management Plan
113 (CMP) attached to this ordinance as **Exhibit D** and made a part hereof as if set forth in full.

114 **SECTION 4.** The development terms and conditions in this ordinance will remain effective until
115 such time as, upon either the City or the property owner filing a rezoning application, the City
116 adopts an ordinance rezoning the property described in Section 1 of this ordinance to another
117 zoning district consistent with the Comprehensive Plan and Land Development Code.

118 **SECTION 5.** The City Manager or designee is authorized and directed to make the necessary
119 changes to the Zoning Map Atlas to comply with this ordinance.

120 **SECTION 6.** If any word, phrase, clause, paragraph, section, or provision of this ordinance or

121 the application hereof to any person or circumstance is held invalid or unconstitutional, such
122 finding will not affect the other provisions or applications of this ordinance that can be given
123 effect without the invalid or unconstitutional provision or application, and to this end the
124 provisions of this ordinance are declared severable.

125 **SECTION 7.** All ordinances or parts of ordinances in conflict herewith are to the extent of such
126 conflict hereby superseded.

127 **SECTION 8.** This ordinance will become effective immediately upon adoption; however, the
128 rezoning will not become effective until the amendment to the City of Gainesville Comprehensive
129 Plan adopted by Ordinance No. 211459 becomes effective as provided therein.

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131 **PASSED AND ADOPTED** this _____ day of _____, 2022.

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Attest:

LAUREN POE
MAYOR

Approved as to form and legality:

OMICHELE D. GAINEY
CITY CLERK

DANIEL M. NEE
INTERIM CITY ATTORNEY

This ordinance passed on first reading this _____ day of _____, 2022.

This ordinance passed on second reading this _____ day of _____, 2022.