

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

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

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

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

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

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

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

WHEREAS, on January 1, 2009, the City adopted Ordinance No. 070447 and assigned certain land use designations to the 1,778 acres of property annexed into the City by Ordinance Nos. 3768

and 060731, and provided certain conditions including a requirement that the property owner seek Planned Development District (PD) zoning on approximately 744 acres of property lying below a certain phase line of the total 1,778-acre property; and

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

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

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

WHEREAS, on December 5, 2019, the City Commission held a quasi-judicial hearing and voted to deny Weyerhaeuser's rezoning application ("City Commission Order"); and

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

WHEREAS, on June 4, 2021, and as amended on September 28, 2021, Weyerhaeuser filed in the Eighth Judicial Circuit Court of Alachua County, Florida, a Complaint for Declaratory Judgment

and Injunctive Relief pursuant to Section 163.3215, Florida Statutes, challenging the City Commission Order (Case No. 2021-CA-001533); and

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

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

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

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

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

the City Commission; and

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

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

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

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

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

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

SECTION 3. In accordance with the requirements of the City's Land Development Code, the

property described in Section 1 of this ordinance has certain areas designated as Conservation Management Areas (CMAs). The CMAs will be regulated by the Conservation Management Plan (CMP) attached to this ordinance as **Exhibit D** and made a part hereof as if set forth in full.

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

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

SECTION 6. If any word, phrase, clause, paragraph, section, or provision of this ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding will not affect the other provisions or applications of this ordinance that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this ordinance are declared severable.

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

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

PASSED AND ADOPTED this _____ day of _____, 2023.

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Attest:

OMICHELE D. NATTIEL-WILLIAMS
CITY CLERK

HARVEY L. WARD
MAYOR

Approved as to form and legality:

DANIEL M. NEE
CITY ATTORNEY

This ordinance passed on first reading this _____ day of _____, 2023.
This ordinance passed on second reading this _____ day of _____, 2023.