

**ORDINANCE NO. 070622**  
**0-07-114**

**An Ordinance of the City of Gainesville, Florida; amending the Planned Development that was originally approved by Alachua County, formerly known as “Winn Dixie”, located in the vicinity of 3501 Southwest Archer Road; adopting a new Development Plan and superseding the Development Plan approved by Alachua County, as more specifically provided in this ordinance; providing for the construction, use, and operation of a maximum 100,000 square-foot retail establishment to be known as the Archer Square Planned Development; adopting new development plan maps and a new planned development report; adopting new conditions and restrictions; providing for penalties; providing a severability clause; providing a repealing clause; and providing an immediate effective date.**

**WHEREAS**, the Alachua County Board of County Commissioners adopted a planned development on certain real property in 1977, which is the subject of this Ordinance, adopted a certain Development Plan, and rezoned certain real property to “PUD”; and

**WHEREAS**, the owner/petitioner has petitioned the City to amend and supersede the planned development approved and adopted by Alachua County, and approve a new development plan that permits the construction of a maximum 100,000 square-foot retail establishment; subject to the conditions and restrictions, as more specifically provided herein; and

**WHEREAS**, notice was given and publication made as required by law of a Public Hearing which was then held by the City Plan Board on October 18, 2007; and

**WHEREAS**, notice was given and publication made of a Public Hearing which was then held by the City Commission on November 19, 2007; and

**WHEREAS**, the City Commission finds that the amendment of the Planned Development District ordinance is consistent with the City of Gainesville 2000-2010 Comprehensive Plan.

1           **WHEREAS**, at least ten (10) days notice has been given once by publication in a  
2 newspaper of general circulation prior to the adoption public hearing notifying the public of this  
3 proposed ordinance and of a Public Hearing in the City Commission Meeting Room, First Floor,  
4 City Hall, in the City of Gainesville; and

5           **WHEREAS**, pursuant to law, notice has also been given by mail to the owners whose  
6 properties will be regulated by the adoption of this Ordinance, ten days prior to the adoption of  
7 this ordinance; and

8           **WHEREAS**, Public Hearings were held pursuant to the published and mailed notices  
9 described at which hearings the parties in interest and all others had an opportunity to be and were,  
10 in fact, heard.

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

13           **Section 1.** The planned development approved and adopted by the Board of County  
14 Commissioners of Alachua County by Resolution No. A-1613, as amended and revised by  
15 subsequent resolutions, including specifically Resolution Z-90-43, is amended by the adoption of a  
16 new development plan, as more specifically described in this Ordinance, on that portion of the real  
17 property described and attached hereto as Exhibit "A" and made a part hereof as if set forth in full.  
18 The property described in Exhibit "A" shall retain the zoning classification of "Planned  
19 Development", but shall be subject in all respects to the conditions, restrictions and requirements of  
20 this Ordinance and the Code of Ordinances of the City of Gainesville, Florida.

21           **Section 2.** A new Development Plan for "Archer Square Planned Development" is  
22 approved and adopted, consisting of:

1 (1) A “PD Report, Archer Square Planned Development”, a copy of which is attached  
2 hereto as Exhibit “B” and made a part hereof as if set forth in full; and

3 (2) Development plan maps consisting of 8 sheets: 1) “Existing Conditions Map Sheet 1 of  
4 5”, dated August 13, 2007; 2) “Existing Conditions Map Sheet 2 of 5”, dated August  
5 13, 2007; 3) “Existing Conditions Map Sheet 3 of 5”, dated August 13, 2007; 4)  
6 “Existing Conditions Map Sheet 4 of 5”, dated August 13, 2007; 5) “Existing  
7 Conditions Map Sheet 5 of 5”, dated August 13, 2007; 6) “Aerial Photo”, dated August  
8 13, 2007, Sheet 6; 7) “PD Layout Plan”, dated October 2, 2007, Sheet 7; and 8)  
9 Color/Architectural Building Elevations revision date of February 7, 2008, Sheet 8,  
10 attached hereto as Exhibit “C”, are made a part of this ordinance as if set forth in full;

11 The terms, conditions, and limitations of the Development Plan shall regulate the use and  
12 development of the land described herein under the category of Planned Development District, as  
13 provided in Chapter 30, Land Development Code of the City of Gainesville (hereinafter referred to  
14 as “Land Development Code”). In the event of conflict between the provisions of the development  
15 plan report (Exhibit “B”) and the development plan maps (Exhibit “C”), the provisions, regulations,  
16 and restrictions of the development plan maps (Exhibit “C”) shall govern and prevail. All of the  
17 conditions of the previously approved Planned Development adopted by the Board of County  
18 Commissioners of Alachua County, Florida, as amended, is superseded by this Ordinance, and shall  
19 be of no further force and effect and amendments thereto shall remain in effect.

20 **Section 3.** The following additional conditions, restrictions and requirements shall apply:

21 Condition 1. The Plan Board shall be the reviewing Board for the Development Plan and  
22 Architectural Design associated with this Planned Development.  
23

1 Condition 2. The owner/developer shall provide vehicular and pedestrian access (easements),  
2 over and across all existing private roadways or drives, to all adjacent properties to provide  
3 access and parking, as more specifically shown on Sheet 2 of Exhibit "C".  
4

5 Condition 3. The Building Area location, as shown on the PD Layout Plan (Sheet 7 of  
6 Exhibit "C"), may be shifted up to 10 feet except that the Southwest 34<sup>th</sup> Street side of the  
7 department store building shall not be greater than 80-feet from the face of the curbing of  
8 S.W. 34<sup>th</sup> Street.  
9

10 Condition 4. The materials, textures and colors illustrated on the color elevations shall be the  
11 materials, textures and colors utilized in the actual construction of the department store. The  
12 architectural design, color scheme, elements, windows, as shown on Sheet 8 of Exhibit "C".  
13

14 Condition 5. When an application is made for development plan approval, the  
15 owner/developer shall submit an Application for a Certificate of Final Concurrence.  
16

17 Condition 6. The development plan associated with the Kohl's Planned Development shall  
18 comply with all relevant Concurrence Management Element policies.  
19

20 Condition 7. The display windows depicted on the color/architectural building elevations  
21 (Sheet 8 of Exhibit "C") shall be active display windows that show actual current  
22 merchandise that can be purchased inside the store at that time.  
23

24 Condition 8. All of the trees that are required to be planted as part of the street buffer along  
25 Southwest 34<sup>th</sup> Street as a condition of development plan review shall be 65 gallon-sized  
26 trees, including evergreen, deciduous and semi-deciduous trees such as Live Oaks.  
27

28 Condition 9. The development plan shall comply with the Central Corridors Special Area  
29 Plan design standards, as provided in the Land Development Code, except where the PD Plan  
30 Report, PD Layout Plan and PD Elevations specifically deviate from those development  
31 guidelines. The maximum build-to line (setback) shall be 80-feet from the face of curb for  
32 Southwest 34<sup>th</sup> Street. The minimum amount of glazing allowed along the east elevation  
33 (34<sup>th</sup> Street side) façade of the department store shall equal the glazing (size and location)  
34 indicated on Sheet 8 of Exhibit "C". A sidewalk shall be constructed and maintained by the  
35 owner/developer from the public sidewalk system and shall lead directly to the pedestrian  
36 entrance located along the south (parking lot) side of the department store.  
37

38 Condition 10. The owner/developer shall construct and maintain in a clean and attractive  
39 condition a minimum 65-foot wide linear park like buffer area in front of the east building  
40 elevation facing Southwest 34<sup>th</sup> Street with several sidewalks penetrating into the park from  
41 the public sidewalk system and a walkway provided along the east façade of the building to  
42 view store merchandise in the display windows.  
43

1 Condition 11. A minimum 25-foot wide setback for all signage shall be maintained along the  
2 Southwest 34<sup>th</sup> Street right-of-way. A minimum 50 foot wide setback for all signage shall be  
3 maintained along the Archer Road right-of-way.  
4

5 Condition 12. The service area(s) located on the north side of the building (shown on Sheet 7  
6 of Exhibit "C") shall be screened and made less obtrusive, by utilizing decorative screening  
7 walls or vegetation or a combination of each, subject to approval of the Plan Board during  
8 development plan approval.  
9

10 Condition 13. All mechanical equipment shall be located on the roof (screened by parapet  
11 wall) of the facility or to the side or rear of the building that is screened from public view by  
12 use of decorative masonry walls and vegetation, subject to approval by the Plan Board during  
13 development plan review.  
14

15 Condition 14. The maximum building coverage for the site shall be 100,000 square feet or  
16 21.3%, and the maximum impervious area of the site shall be 75%. There shall be a  
17 minimum area of approximately 117,614 square feet of open space or 25% of the total site  
18 area.  
19

20 Condition 15. Turning radii improvements shall be made by the owner/developer as required  
21 by Public Works, FDOT and Alachua County at the driveway entrance from Southwest 34<sup>th</sup>  
22 Street to the site that is located immediately north of the proposed linear park.  
23

24 Condition 16. In order to facilitate transit service to this development, the owner/developer  
25 shall convey to the City an easement, at no cost or expense to the City, across and through the  
26 property adjacent to Southwest 34<sup>th</sup> Street (within the linear park area, as shown on Sheet 7  
27 of Exhibit "C") to accommodate a public transit bus bay and bus shelter. The bus shelter  
28 shall be constructed and maintained by the owner/developer at its own expense. The bus bay  
29 shall be designed, permitted and constructed by the City at a later date subject to the  
30 appropriation of available funds by the City Commission. Bus bay dimensions of 160 feet  
31 long (including tapers) and 11.5 feet wide must be provided. The bus shelter area must be at  
32 least 18 feet long (parallel to the bus bay) and 10 feet wide. A concrete ADA accessible  
33 sidewalk connection shall be provided between the development and the bus stop and shelter  
34 that is architecturally consistent with the department store and constructed as part of the  
35 redevelopment of the site, subject to approval of the plan board during development plan  
36 review.  
37

38 Condition 17. The general location for the bus shelter/s and bus bay is shown on the PD  
39 Layout Plan (Sheet 7 of Exhibit "C"). The exact location is subject to approval by the Public  
40 Works Department and RTS.  
41

1 Condition 18. An internal cross-access drive-way connection shall be provided by the  
2 owner/developer between the subject property and the drive-thru restaurant located  
3 immediately to the south along Southwest 34<sup>th</sup> Street.  
4

5 Condition 19. Extensive vegetative materials and screening walls shall be used along the  
6 main driveway from Southwest 34<sup>th</sup> Street immediately north of the building, to screen the  
7 service areas, subject to approval by the city plan board during development plan review.  
8

9 Condition 20. The owner/developer may request up to a 20% reduction in the number of  
10 parking spaces required by the City's Land Development Code, and may request providing  
11 compact parking spaces for up to 50% of the total provided, subject to approval of the plan  
12 board during development plan review.  
13

14 Condition 21. The number of bicycle, motor scooter and motorcycle parking spaces shall be  
15 increased in number above the minimum required by allowing up to 15% of required parking  
16 spaces being motorcycle or scooter parking spaces, subject to approval of the plan board  
17 during development plan review.  
18

19 Condition 22. Per the requirements of Concurrency Management Element Policy 1.1.4.a., the  
20 owner/developer shall construct, at owner/developer's own cost and expense, a 5-foot  
21 minimum width sidewalk connection from the department store to the SW 34<sup>th</sup> Street  
22 sidewalk system. Per the requirements of Concurrency Management Element Policy 1.1.4.e.,  
23 the owner/developer shall construct, at owner/developer's own cost and expense, a 5-foot  
24 minimum width sidewalk and pedestrian crosswalk system to connect buildings and parking  
25 areas at the development site and to interconnect with buildings along the Archer Road  
26 frontage.  
27

28 Condition 23. The owner/developer shall raze the entire "Winn Dixie" shopping center  
29 building at one time only. For safety reasons and others, the shopping center shall not be  
30 demolished in stages. The owner/developer shall use their best effort to utilize best industry  
31 practices (deconstruction of existing shopping center) leading to a "LEEDs" certification.  
32

33 Condition 24. The development order approved by the adoption of this Planned  
34 Development Zoning Ordinance will be valid for a period of three years from the date of final  
35 adoption. A building permit must be issued prior to the aforesaid expiration date. The City  
36 Commission may grant an extension of time for a period of one year, only if the  
37 owner/developer's request is filed in writing with the Clerk of the Commission at least 30  
38 days prior to the 3-year expiration date. If the original approval period expires with no  
39 extension being requested or granted, the development order approved by this Planned  
40 Development Zoning Ordinance shall be void and of no further force and effect. The City  
41 then will designate other appropriate zoning consistent with the Comprehensive Plan.  
42

1 Condition 25. All signage indicated on PD architectural building elevations, Sheet 8 of  
2 Exhibit "C", or on site plan building elevations submitted during the development review  
3 process shall state that they are "For Illustrative Purposes Only".  
4

5 Condition 26. Except as expressly provided herein, the use, regulations and development of  
6 the property shall be governed as if this land were zoned "BUS: General business district".  
7

8 **Section 4.** If it is determined by the City Manager that a violation of this Ordinance exists,  
9 the City Manager may issue and deliver an order to cease and desist from such violation and to  
10 correct the violation, to preclude occupancy of the affected building or area, or to vacate the  
11 premises. The City Manager, through the City Attorney, may seek an injunction in a court of  
12 competent jurisdiction and seek any other remedy available at law.

13 **Section 5.** Any person who violates any of the provisions of this ordinance shall be deemed  
14 guilty of a municipal ordinance violation, and shall be subject to fine or imprisonment as provided  
15 by section 1-9 of the Gainesville Code of Ordinances. Each day a violation occurs or continues,  
16 regardless of whether such violation is ultimately abated or corrected, shall constitute a separate  
17 offense.

18 **Section 6.** If any word, phrase, clause, paragraph, section or provision of this ordinance  
19 or the application hereof to any person or circumstance is held invalid or unconstitutional, such  
20 finding shall not affect the other provisions or applications of the ordinance which can be given  
21 effect without the invalid or unconstitutional provisions or application, and to this end the  
22 provisions of this ordinance are declared severable.

23 **Section 7.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of  
24 such conflict hereby repealed.

25 **Section 8.** This ordinance shall become effective immediately upon final adoption.

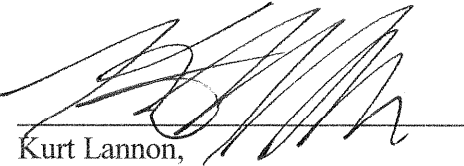
1 PASSED AND ADOPTED this 24th day of March, 2008.

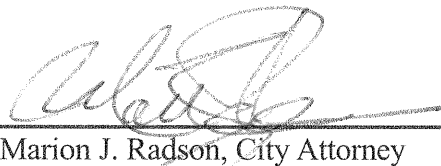
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Pegeen Hanrahan, Mayor

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

  
Kurt Lannon,  
Clerk of the Commission

  
Marion J. Radson, City Attorney

MAR 25 2008

This ordinance passed on first reading this 10th day of March, 2008.

This ordinance passed on second reading this 24th day of March, 2008.

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