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ORDINANCE NO.
0-06-86

An Ordinance of the City of Gainesville, Florida; rezoning certain lands in the City, as more specifically described in this Ordinance, and amending the Zoning Map Atlas from the zoning categories of "MU-2: 12-30 units/acre mixed use medium intensity" and "BUS: General business district" to zoning category of "Planned Development District"; located in the vicinity of 2306 Southwest 13th Street; adopting a development plan report and development plan maps; providing conditions and restrictions; providing for enforcement and penalties; providing a severability clause; and providing an immediate effective date.

WHEREAS, by initiation of a petition by the property owner, publication of notice of a public hearing was given that the Zoning Map Atlas be amended by rezoning certain property from the zoning categories of "MU-2: 12-30 units/acre mixed use medium intensity" and "BUS: General business district" to the zoning category of "Planned Development District"; 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 June 15, 2006; and

WHEREAS, notice was given and publication made of a public hearing which was then held by the City Commission on August 14, 2006; and

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

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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 property
6 owners whose land will be regulated by the adoption of this Ordinance and interested parties, at least
7 ten days prior to adoption of this ordinance; and

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

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

12 **Section 1.** The Zoning Map Atlas of the City of Gainesville is amended by
13 rezoning the following described property from the zoning categories of "MU-2: 12-30
14 units/acre mixed use medium intensity" and "BUS: General business district" to the
15 zoning category of "Planned Development District";

16 See Exhibit "A" attached hereto and made a
17 part hereof as if set forth in full.
18

19 **Section 2.** The City Manager or designee is authorized and directed to make the
20 necessary change in the Zoning Map Atlas to comply with this Ordinance.

21 **Section 3.** The Development Plan attached to this Ordinance, which consists of the
22 following:

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1. the development plan report entitled "Lakeshore Planned Development (PD) Report", dated October 2006, attached and identified as Exhibit "B".
2. development plan maps consisting of 2 sheets: 1) "Existing Conditions Map" dated April 12, 2006 and; 2) "PD Layout Plan Map", dated September 14, 2006; identified as Exhibit "C", are incorporated and made a part of this Ordinance as if set forth in full.

The terms, conditions, and limitations of the Development Plan shall regulate the use and development of the land described herein zoned to the category of Planned Development District as provided in Chapter 30, Land Development Code of the City of Gainesville (hereinafter referred to as "Land Development Code"). In the event of conflict between the provisions of the development plan report (Exhibit "B") and the development plan maps (Exhibit "C"), the provisions, regulations, and restrictions of the development plan maps (Exhibit "C") shall govern and prevail.

Section 4. Any provision of this Ordinance to the contrary notwithstanding, the following additional conditions, restrictions and regulations shall apply and govern the development and use of the land:

1. Sidewalks shall be provided between the residential buildings, the new residential building and the existing recreation area, the new residential building and the sidewalk along Southwest 13th Street, and the existing residential building and the new recreation area to the west.

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2. The development must provide for sidewalk connections between the development and sidewalk along Southwest 13th Street. Development must provide at least 5 feet of unobstructed width for all sidewalk connections from the development to the public sidewalk, in accordance with Policy 2.1.16 of the Transportation Mobility Element of the Comprehensive Plan.
3. During development plan review, all existing development adjacent to wetland areas will be delineated and the wetland setback will be maintained to the greatest extent possible, subject to the approval of the appropriate reviewing board or staff, as applicable.
4. Wetland areas shall be protected from further encroachment that has already occurred from existing development. This may include physical barriers or other effective measures determined during development review, subject to approval of the appropriate reviewing board or staff, as applicable.
5. The development shall propose landscaping on the west side of the property to achieve a compatible relationship between the building, access way, and adjacent residential and pedestrian walkways, subject to approval of the appropriate reviewing board or staff, as applicable.
6. Surface off-street parking shall not exceed one (1) parking space per bedroom.
7. Where new vehicular use areas exist adjacent to residential areas to the north and south of the Development, a 15-foot landscape buffer shall be provided with appropriate

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screening or fence material, at development plan review, subject to approval of the appropriate reviewing board or staff, as applicable.

8. The setbacks for construction of the new tower shall be a minimum of 65 feet from the north and south property lines.

9. Transmitter towers shall be allowed only in accordance with Section 30-98 of the City of Gainesville's Land Development Code:

10. The Development must provide an internal pedestrian and bicycle circulation plan that is safe, accessible, efficient and clearly separated from vehicular use circulation, subject to approval of the appropriate reviewing board or staff, as applicable. Pedestrian and bicycle circulation shall be linked to the external pedestrian network.

11. Area "E" land use designated on the Planned Development Layout map (Sheet 2 of Exhibit "C") shall permit only the following uses: Pedestrian, Bicycle, Stormwater management, Wetland Buffer and Passive and Active Recreation.

12. The area of the subject property within the S.W. 13th Street Special Area Plan may develop a maximum of 5,000 square feet of commercial as allowed in the BUS zoning district of the City's Land Development Code.

13. One access point is allowed onto Southwest 13th Street, subject to approval of the appropriate reviewing board or staff, as applicable. Design and turning movements shall be subject to traffic analysis and Florida Department of Transportation (FDOT) requirements.

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- 1 14. During development plan review, City Manager or designee shall determine whether a
2 bus shelter is needed to meet concurrency. If a bus shelter is needed, it shall be
3 provided at the developer's expense and shall be designed in accordance with the
4 requirements of the City's Regional Transit System, to be compatible and
5 complimentary to the architectural forms and styles of the development and wall.
- 6 15. The façade and orientation of the ground level buildings and infrastructure shall provide
7 architectural relief, garden walls, landscaping, streetscape and compatible hardscape
8 that will be consistent with the intent of the Southwest 13th Street Special Area Plan.
9 A three-foot architecturally compatible wall shall be provided within the area forward
10 of the build-to line. The design is to achieve 75% opacity, except where specifically
11 addressed. The criteria and design shall be determined during development review,
12 subject to approval of the appropriate reviewing board or staff, as applicable.
- 13 16. Except as specifically provided in this Ordinance, the Development shall be regulated in
14 accordance with the provisions of RH-2 zoning district of the City's Land Development
15 Code.
- 16 17. Floors above three stories shall incorporate architectural design to provide the existing
17 and proposed buildings with a prominent façade towards Southwest 13th Street,
18 subject to approval of the appropriate reviewing board or staff, as applicable.
- 19 18. Future development within the SW 13th Street Special Area Plan shall be in
20 accordance with development standards of the Southwest 13th Street Special Area
21 Plan, except as modified by this Ordinance.

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- 1 19. The development shall be required to landscape the adjacent median consistent with the
2 S.W. 13th Street Special Area Plan.
- 3 20. Vehicular use areas, and those areas for vehicular storage or parking of vehicles shall
4 have no more than a double row of parking within 40 feet of the east property line.
- 5 21. Maximum lot coverage shall not exceed 50%, and maximum building height for area B
6 (see Sheet 2 of Exhibit "C") is limited to 14 stories. Maximum building height for area
7 F (see Sheet 2 of Exhibit "C") is limited to 5 stories by right and up to 8 stories by
8 Special Use Permit.
- 9 22. The maximum density for this Development shall not exceed 50 dwelling units per
10 acre.
- 11 23. In order to preserve and protect the buffer area on the west of the subject property,
12 prior to second and final reading, the owner/developer shall convey to the City of
13 Gainesville, its successors and assigns a conservation easement over the wetland
14 portions of the property to the west as shown on the PD Layout Plan Map (Exhibit
15 "C") as "50' Buffer and Proposed Conservation Easement". The Easement shall
16 prohibit or limit the following:
- 17 (a) Construction or placing of buildings, roads, signs, billboards or other advertising,
18 utilities, or other structures on or above the ground.
- 19 (b) Dumping or placing of soil or other substance or material as landfill or dumping or
20 placing of trash, waste, or unsightly or offensive materials.
- 21 (c) Removal or destruction of trees, shrubs, or other vegetation.

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(d) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface.

(e) Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition.

(f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.

(g) Acts or uses detrimental to such retention of land or water areas.

(h) Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.

In the event the development order approving this planned development expires and becomes null and void as provided in paragraph 29, then and in this event, the conservation easement shall automatically cease and terminate.

24. The owner/developer will coordinate with the City of Gainesville City Arborist or designee during development plan review the identification of trees for removal, if any, as well as landscaping and buffer requirements, subject to approval of the appropriate reviewing board or staff, as applicable.

25. An invasive exotics species plan will be submitted by the owner/developer at the time of filing for development plan review. This plan must include appropriate financial bonding and monitoring plan for a minimum of three (3) years.

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- 1 26. All development must comply with requirements of the wetlands and environmental
2 ordinances, statutes and regulations during development review.
- 3 27. As part of the final development plan review, all wetlands shall be delineated. The
4 owner/developer shall provide information from the Florida Fish and Wildlife
5 Conservation Commission related to activity status of the eagle's nest.
- 6 28. Sidewalks shall be provided to connect the adjacent developments to the west, east and
7 south, and shall be hard surfaced and may vary in width between 5 feet to 10 feet,
8 depending on location and function, subject to approval of the appropriate reviewing
9 board or staff, as applicable.
- 10 29. The development order approved by this Ordinance shall be valid for a period of three
11 years from the date of final adoption of this Ordinance. Prior to the expiration of this 3
12 year period, a preliminary development plan must be filed with the City, or this
13 development order shall expire and be of no further force and effect. A final
14 development plan shall be filed with the City no later than six months after the
15 preliminary development plan has been approved, or this development order shall
16 expire and be of no further force and effect.
- 17 30. Application for a building permit must be filed within one year of obtaining final
18 development plan approval, or this development order shall expire and be of no further
19 force and effect. Construction must commence no later than one year after obtaining a
20 final development plan approval, or one year after receiving a building permit,

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1 whichever is the later, or this development order shall expire and be of no further force
2 and effect.

3 31. The City Commission may approve a one-time, one-year extension of time periods
4 specified in paragraph 30 above, upon good cause shown.

5 **Section 5.** If it is determined by the City Manager that a violation of this Ordinance exists, the
6 City Manager may issue and deliver an order to cease and desist from such violation to correct a
7 violation, to preclude occupancy of the affected building or area, or to vacate the premises. The City
8 Manager, through the City Attorney, may seek an injunction in a court of competent jurisdiction and
9 seek any other remedy available at law.

10 **Section 6.** Any person who violates any of the provisions of this ordinance shall be deemed
11 guilty of a municipal ordinance violation and shall be subject to fine or imprisonment as provided by
12 section 1-9 of the Gainesville Code of Ordinances. Each day a violation occurs or continues,
13 regardless of whether such violation is ultimately abated or corrected, shall constitute a separate
14 offense.

15 **Section 7.** If any section, sentence, clause or phrase of this ordinance is held to be invalid or
16 unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the
17 validity of the remaining portions of this ordinance.

18 **Section 8.** This ordinance shall become effective immediately upon final adoption; however,
19 the rezoning shall not become effective until the amendment to the City of Gainesville 2000-2010

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Comprehensive Plan adopted by Ordinance No. 060105 becomes effective as
provided therein.

PASSED AND ADOPTED this ____ day of _____, 2007.

Pegeen Hanrahan, Mayor

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

Kurt Lannon,
Clerk of the Commission

Marion J. Radson, City Attorney

This ordinance passed on first reading this ____ day of _____, 2007.

This ordinance passed on second reading this ____ day of _____, 2007.

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