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ORDINANCE NO. 0-06-103

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 category of "RSF-4: Single family residential district (8 units per acre)" to "PD (Planned Development)" located in the vicinity of 5043 Northwest 43rd 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 category of "RSF-4: Single family residential district (8 units per acre)" to the zoning category of "PD (Planned Development)"; 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 August 17, 2006; and

WHEREAS, notice was given and publication made of a public hearing which was then held by the City Commission on September 11, 2006; and

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

WHEREAS, at least ten (10) days notice has been given once by publication in a newspaper of general circulation prior to the adoption public hearing notifying the public of this

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1 proposed ordinance and of a Public Hearing in the City Commission Meeting Room, First Floor,
2 City Hall, in the City of Gainesville; and

3 **WHEREAS**, pursuant to law, notice has also been given by mail to the property owners
4 whose land will be regulated by the adoption of this Ordinance and interested parties, at least ten
5 days prior to adoption of this ordinance; and

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

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

11 **Section 1.** The Zoning Map Atlas of the City of Gainesville is amended by
12 rezoning the following described property from the zoning category of "RSF-4: Single
13 family residential district (8 units per acre)" to the zoning category of "PD (Planned
14 Development)":

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

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

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

- 1 1. the development plan report entitled "PD REPORT FOR HUNTER'S
- 2 WALK," attached and identified as Exhibit "B"; and
- 3 2. development plan maps consisting of 2 sheets: 1) "Boundary Survey" last revised
- 4 August 23, 2006, and 2) "PD Layout Plan Map", last revised August 1, 2006,
- 5 identified as Exhibit "C", are incorporated and made a part of this Ordinance as if
- 6 set forth in full.

7 **Section 4.** The terms, conditions, and limitations of the Development Plan shall regulate

8 the use and development of the land described herein zoned to the category of Planned

9 Development District as provided in Chapter 30, Land Development Code of the City of

10 Gainesville (hereinafter referred to as "Land Development Code"). In the event of conflict

11 between this Ordinance and the development plan report (Exhibit "B") or the development plan

12 maps (Exhibit "C"), the provisions, regulations, and restrictions of this Ordinance shall prevail.

13 In the event of conflict between the provisions of the development plan report (Exhibit "B") and

14 the development plan maps (Exhibit "C"), the provisions, regulations, and restrictions of the

15 development plan maps (Exhibit "C") shall govern and prevail.

16 **Section 5.** The following additional conditions, restrictions and regulations shall apply to

17 the development and use of the land:

18 *Condition 1:* The permitted uses shall be limited to the following commercial uses,

19 developed in accordance with use conditions in the "MU-1 (Mixed Use Low Intensity)"

20 zoning category:

- 21 (1) Eating places (as defined in the Land Development Code),

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- 1 (2) Food stores (Major Group 54),
- 2 (3) Apparel and accessory stores (Major Group 56),
- 3 (4) Home furniture, furnishings and equipment stores (Major Group 57),
- 4 (5) Miscellaneous retail (Major Group 59),
- 5 (6) Depository institutions (Major Group 60),
- 6 (7) Legal services (Major Group 81),
- 7 (8) Engineering, accounting research, management and related services (Major
- 8 Group 87),
- 9 (9) Services, not elsewhere classified (Major Group 89),
- 10 (10) Paint, glass and wallpaper stores (Industry Group 523),
- 11 (11) Hardware stores (Industry Group 525),
- 12 (12) Drug Stores and Proprietary Stores (Industry Group 591),
- 13 (13) Finance, Insurance and Real Estate (Division H),
- 14 (14) Video tape rental (Industry Group 784), and
- 15 (15) Dance studios, schools and halls (Industry Group 791).

16 A maximum of two (2) drive-through facilities for the entire development will be allowed,
17 including those allowed under item (12) above.

18 *Condition 2:* The permitted commercial uses shall be further limited as follows:

19 The building site located within the northwest corner of the development (as shown on PD
20 Layout Plan Map) will be limited to 14,820 square feet of floor area for a drug store and
21 proprietary store with drive-through facility; the building site located within the southwest

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1 corner of the development (as shown on PD Layout Plan Map) will be limited to 4,800
2 square feet of floor area for a depository institution with a drive-through facility; and the
3 building site to the east (as shown on PD Layout Plan) will be limited to 13,200 square feet
4 of floor area for a retail/restaurant establishment. Square footage listed herein is the
5 maximum square footage that will be allowed at each building site. The maximum building
6 area for the subject property is 32,620 square feet. Floor area, as indicated here, shall mean
7 gross floor area as defined in the Land Development Code.

8 *Condition 3:* The proposed building footprint areas are not exact. During
9 development plan review, the board may allow a maximum 20 foot shift in any direction for
10 the placement of buildings; provided the shift does not result in a violation of required
11 development standards of the Planned Development District, such as setbacks and buffers.

12 *Condition 4:* Except as expressly provided herein, the use, regulations and
13 development of the property shall be governed as if the property were zoned "MU-1 (Mixed
14 Use low intensity)."

15 *Condition 5:* Glazed area for buildings along 43rd Street shall be in accordance with
16 requirements of the Special Area Plan for Central Corridors. (See Appendix A, Section 5,
17 of the Land Development Code.)

18 *Condition 6:* The Planned Development shall have an architectural theme
19 consistent with the general development pattern in the neighborhood, and shall comply with
20 the Special Area Plan for Central Corridors in all respects. (See Appendix A, Section 5, of
21 the Land Development Code.)

1 *Condition 7:* A minimum of 50% of the street trees required along Northwest 43rd
2 Street must be a minimum 65-gallon, 3.5 inch caliper trees. To provide aesthetic relief
3 along this corridor, there must be adequate room, as determined by the appropriate
4 reviewing board during development plan review, provided between the underground
5 utilities and the buildings to be developed along the Northwest 43rd Street frontage to allow
6 for growth of these trees.

7 *Condition 8:* A vista corridor running west to east from 43rd Street edge to the
8 eastern most building, shall be designed and integrated into the development within the area
9 identified as the “VEHICULAR/PEDESTRIAN USE AREA” on the PD Layout Plan Map.
10 The vista corridor shall incorporate pedestrian improvements and landscaping to articulate
11 and enhance the vista.

12 *Condition 9:* Locations shall be designated for dumpsters, cart storage, and other
13 access of facilities, subject to approval of the appropriate reviewing board during plan
14 review.

15 *Condition 10.* Prior to second reading of this ordinance, the owner/developer must
16 sign a Transportation Concurrency Exception Area (“TCEA”) Letter of Agreement for the
17 provision of at least eight standards in the Concurrency Management Element, Policy 1.1.6
18 of the City of Gainesville 2000-2010 Comprehensive Plan (hereinafter referred to as the
19 “Comprehensive Plan”).

20 *Condition 11:* The final development plan shall comply with all relevant TCEA
21 requirements in the Concurrency Management Element of the Comprehensive Plan.

1 *Condition 12:* All buildings shall have a frontage and orientation towards
2 Northwest 43rd Street. Building entrances shall be functional and accessible from the street
3 as well as from adjacent vehicular areas.

4 *Condition 13:* A garden wall shall be constructed along Northwest 43rd Street in
5 areas where buildings do not satisfy the build to line requirement and to screen parking
6 areas where necessary. The garden wall shall be architecturally compatible with the
7 buildings within the development. The garden wall shall be a maximum of 3 feet in height
8 and shall consist of a minimum of two different materials, with the final design and location
9 subject to the approval of the appropriate reviewing board during development plan review.

10 *Condition 14:* There shall be a minimum 20 foot wide landscaping strip running
11 north to south along Northwest 43rd Street. The required garden wall described above may
12 be placed within the 20-foot landscaping strip.

13 *Condition 15.* The buffers between this development and the surrounding properties
14 shall be as follows:

15 (a) along the east property line, a minimum 30 foot wide buffer is
16 required. Except that, as depicted on the PD Layout Plan Map, the Developer shall
17 have the option to reduce the minimum 30 foot wide buffer to 15 feet along the
18 north 388.36 feet of the east property line. As a condition precedent to the exercise
19 of this option, the owner/developer and the adjoining property owner to the east
20 shall execute and record a perpetual buffer easement for 15 foot of the required 30
21 foot buffer to lie on the property to the east. The perpetual buffer easement shall be

1 in form and content acceptable to the City Attorney and shall be recorded in the
2 Public Records of Alachua County prior to final development plan approval by the
3 City.

4 (b) along the south property line, a minimum 15 foot wide buffer is
5 required. Except that, as depicted on the PD Layout Plan Map, the 15 foot buffer
6 shall be reduced to 5 feet immediately to the east of the proposed access point.

7 (c) along the west property line, a minimum 20 foot wide buffer is
8 required.

9 *Condition 16:* The required buffers between this development and the residential
10 zoned properties to the south and to the east of the proposed development shall preserve the
11 existing tree canopy to the extent determined feasible by the City Arborist.

12 *Condition 17:* Mechanical equipment, electrical connections, dumpsters, loading
13 and unloading areas, and other service uses shall be screened from view of Northwest 43rd
14 Street and from all surrounding properties. All utility services shall be provided
15 underground. Any screening walls that are visible from Northwest 43rd Street or from any
16 of the surrounding properties shall be integrated with the development by use of similar
17 building materials and architectural details. Dumpster locations for the entire development
18 shall be subject to approval of the appropriate reviewing board at the time of site plan
19 review.

20 *Condition 18:* Except as expressly provided herein, all signage must comply with
21 the Land Development Code. Only one monument sign is permitted. The monument sign

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1 shall be landscaped and shall be consistent with the architectural style and materials of the
2 buildings. Electronic signs shall not be permitted. Electronic sign means any sign, or
3 portions of a sign, where any light source, including but not limited to incandescent bulbs or
4 light-emitting diodes (LED), constitute the sign text or image. This type of sign includes,
5 but is not limited to, electronic message boards, television screens, plasma screens, digital
6 screens, flat screens, and holographic displays.

7 *Condition 19:* No more than 20 feet of horizontal distance of building wall shall be
8 provided without articulation or architectural relief for those portions of building walls that
9 front on Possum Creek Road and Northwest 43rd Street.

10 *Condition 20:* An invasive, non-native plant removal plan shall be developed and
11 included as part of the final development plan, subject to approval by City staff.

12 *Condition 21:* During development plan review, the City of Gainesville traffic
13 engineer shall recommend traffic safety and circulation requirements, subject to approval of
14 the appropriate reviewing board during development plan review. Required improvements
15 shall be the responsibility of the owner/developer who shall provide the City with financial
16 responsibility assurances, subject to the approval of City Public Works. Traffic
17 modifications on the county road shall comply with the permit requirements of Alachua
18 County. The owner/developer is required to install a new traffic signal at the vehicular
19 access point on Northwest 43rd Street. The new traffic signal shall meet the design
20 specifications of the City Public Works Department and Traffic Management System
21 (TMS) standards, and shall be equipped with an Opticom device.

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1 *Condition 22:* The existing traffic signal at Northwest 43rd Street and Northwest
2 53rd Avenue shall be modified to the TMS standards, and the connection between the new
3 signal and the existing signal shall be provided in accordance with TMS standards, at the
4 sole cost and expense of the owner/developer as part of the TCEA requirements.

5 *Condition 23:* Cross access easements are required for access to the adjoining office
6 development to the south and to the residential property to the east of the development. The
7 cross access easements shall be recorded in the Official Records of Alachua County prior to
8 final development plan approval. The owner/developer shall permit and also seek a cross
9 access easement with the owner(s) of Possum Creek Road (currently a private road).

10 *Condition 24:* The property owner/developer, at its own cost and expense, shall
11 provide external and internal sidewalks for public access. All internal sidewalks shall be a
12 minimum of 5 feet in width and shall be provided between all buildings within the
13 development, as well as along all cross access areas.

14 *Condition 25:* Internal drive aisle widths are generally depicted on the PD Layout
15 Plan Map (Exhibit C). Landscape islands and terminal islands on the final development
16 plan shall be at least 9 feet in width. Landscape islands and terminal islands that include a
17 sidewalk shall be at least 14 feet in width. Drive aisle widths must meet all applicable
18 standards of the City Public Works Department.

19 *Condition 26:* The development order approved by this Ordinance will be valid for
20 a period of three years from the date of final adoption of this Ordinance. Final development
21 plan approval must be obtained within 18 months from the date of final adoption of this

1 ordinance. Construction of the development must commence no later than 18 months after
2 final development plan approval. Prior to expiration of the three-year period, the
3 owner/developer may apply to the City Plan Board and City Commission for a one-time
4 extension of one year, for good cause shown, to be granted or denied in the sole discretion
5 of the City Commission. Construction of the planned development shall be completed
6 within 18 months from the issuance of the first building permit. Failure to timely obtain
7 final development plan approval, or commence construction, or complete construction shall
8 cause any development order for this development to expire and be rendered void.

9 Thereupon, the City may initiate action to change the land use and rezone the property to the
10 appropriate land use and zoning categories.

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

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

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

4 **Section 8.** This ordinance shall become effective immediately upon final adoption;
5 however, the rezoning shall not become effective until the amendment to the City of Gainesville
6 2000-2010 Comprehensive Plan adopted by Ordinance No. 060102 becomes effective as
7 provided therein.

8 **PASSED AND ADOPTED** this _____ day of _____, 2007.

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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

This ordinance passed on first reading this _____ day of _____, 2006.

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