



MEMORANDUM

Office of the City Attorney

Registrar No. 070818

Phone: 334-5011/Fax 334-2229

Box 46

TO: Mayor and City Commission

DATE: July 14, 2008

FROM: City Attorney

ADOPTION HEARING

SUBJECT: **Ordinance No. 0-08-04; Petition 115LUC-07 PB**

An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan, Future Land Use Map; by overlaying the "Planned Use District" category over certain property located in the vicinity of 725 Northeast 1st Street, as more specifically described in this ordinance, with the underlying reversionary future land use category of "Office"; providing a severability clause; providing a repealing clause; and providing an effective date.

Recommendation: The City Commission adopt the proposed ordinance.

PLANNING DEPARTMENT STAFF REPORT

The purpose of this PUD land use proposal is to allow a small, pedestrian oriented neighborhood café. The neighborhood café will be established within an existing two-story historic structure which is currently being used as a professional office building for an architectural firm. In addition, the building's owners are currently in the final stages of restoration of the historic building. The existing structure is located within the Northeast Residential Historic District and also within a special overlay design area known as the Traditional City Special Area Plan. The Traditional City designation has been established to improve the sense of place and community; and to strike a balance between the needs of the car and pedestrian by creating a pleasant ambiance and human scaled features.

The unique aspect of this location is its pedestrian accessibility. It can be accessed via tree lined neighborhood streets that encourage patrons to walk and not drive to this destination. The addition of the café should contribute to the vitality of the area.

The applicant's request is for a neighborhood café to be open for breakfast and lunch six (6) days a week. The proposed development is unique and will provide an eatery within a short walking distance of the many offices, and residences, and will be across the street from a multi-family building. The scale of the eatery will be small providing a total of no more than 30 seats divided between the interior of the building and a new courtyard area to the rear of the lot. The courtyard will provide seating in a garden setting complete with a water feature and extensive landscaping.


The proposed use also requires a rezoning from OR (office residential - up to 20 du/ac) to PD (planned development). And thus, this petition is related to Petition 112PDV-07PB.


After notice in the Gainesville Sun on October 31, 2007, the Plan Board at its meeting on November 15, 2007, heard the Petition, and by a vote of 7-0, recommended the City Commission approve the petition with staff conditions as modified. The City Commission heard and approved the petition by a vote of 7-0 at its meeting on January 28, 2008.

CITY ATTORNEY MEMORANDUM

The proposed amendment to the Comprehensive Plan is treated as a small scale development activity. After the City Commission adopts the ordinance, it will be filed with the State Land Planning Agency. The state land planning agency does not review or issue a notice of intent for small scale development amendments. Any affected person may file a petition with the State Division of Administrative Hearings to request a hearing to challenge the compliance of a small scale development amendment within 30 days following the City's adoption of the amendment.

Small scale development amendments do not become effective until 31 days after adoption. If challenged within 30 days after adoption, small scale development amendments shall not become effective until the state land planning agency or the Administration Commission issues a final order that the adopted small scale development amendment is in compliance.

Prepared by: 
Nicolle M. Shalley
Assistant City Attorney II

Approved and
Submitted by: 
Marion J. Radson
City Attorney

MJR:NMS/sw

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6/18/2008

ORDINANCE NO. _____

0-08-04

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4 **An ordinance amending the City of Gainesville 2000-2010**
5 **Comprehensive Plan, Future Land Use Map; by overlaying the**
6 **"Planned Use District" category over certain property located in**
7 **the vicinity of 725 Northeast 1st Street, as more specifically**
8 **described in this ordinance, with the underlying reversionary**
9 **future land use category of "Office"; providing a severability**
10 **clause; providing a repealing clause; and providing an effective**
11 **date.**

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14 **WHEREAS**, by initiation of a petition by the property owner, publication of notice of a
15 public hearing was given that the Future Land Use Map be amended by overlaying the land use
16 category of "Planned Use District" over certain property with the underlying future land use
17 category of "Office"; and

18 **WHEREAS**, notice was given and publication made as required by law and a public
19 hearing was held by the City Plan Board on November 15, 2007; and

20 **WHEREAS**, notice was given and publication made as required by law and a public
21 hearing was held by the City Commission on January 28, 2008; and

22 **WHEREAS**, the amendment to the land use category of the City of Gainesville 2000-2010
23 Comprehensive Plan proposed herein directly relates to a small scale development activity as
24 provided in Chapter 163, Florida Statutes; the City of Gainesville will transmit copies of the public
25 notice and this proposed change to the State Land Planning Agency, the regional planning council,

DRAFT

6/18/2008

1 and any other person or entity who has requested a copy for their comments subsequent to the
2 passage of this ordinance; and

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

7 **WHEREAS**, pursuant to law, notice has also been given by mail to the owner whose
8 property will be regulated by the adoption of this Ordinance, at least ten days prior to the date set
9 for a public hearing on this ordinance; and

10 **WHEREAS**, the public hearing was held pursuant to the published notice described above
11 at which hearing the parties in interest and all others had an opportunity to be and were, in fact,
12 heard.

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

15 **Section 1.** The Future Land Use Map of the City of Gainesville 2000-2010 Comprehensive
16 Plan is amended by overlaying the "Planned Use District" future land use category on the following
17 described property with the underlying land use category of "Office":

18 See legal description attached hereto as Exhibit "A", and made a part
19 hereof as if set forth in full.

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6/18/2008

1 **Section 2.** The planned use district category of the property described in Section 1 of this
2 ordinance is subject to the following terms, conditions and restrictions:

3 1. The permitted uses by right shall be limited to office or residential, as the principal uses, and
4 an eating place as an accessory use.

5 2. The eating place shall be limited to 874 square feet (32.1%) of the existing 2,638 square
6 foot, two story office building, 184 square feet of outdoor porch waiting area and 433
7 square feet of outdoor paved plaza area. The eating place and its percentage of building and
8 site area shall not expand over time. The remaining square footage shall be used for the
9 principal uses of office or residential only.

10 3. The planned use district shall provide not less than 3,407 square feet (32.2%) of site open
11 space, inclusive of outdoor plaza area.

12 4. The planned use district land use category does not vest the development for concurrency.
13 The owner/developer is required to apply for and meet concurrency management
14 certification requirements, including all relevant Transportation Concurrency Exception
15 Area (TCEA) standards, at the time of application for rezoning to Planned Development
16 District.

17 **Section 3.** A planned development (PD) zoning ordinance consistent with the planned use
18 district must be adopted by the City Commission within 18 months of the effective date of the land
19 use change as provided in section 7 of this ordinance. The obligation to apply for and obtain PD
20 zoning shall be on the owner/developer. If the aforesaid zoning ordinance is not adopted within the

DRAFT

6/18/2008

1 18-month period, then the overlay planned use district shall automatically be null and void and of
2 no further force and effect and the overlay land use category shall ministerially be removed from
3 the Future Land Use Map, leaving the original and underlying land use in place. The timely filing
4 of an extension application by the owner/developer to extend the aforesaid 18-month period shall
5 toll the expiration date until final City Commission action on the extension application.

6 **Section 4.** The City Manager is authorized and directed to make the necessary changes in
7 maps and other data in the City of Gainesville 2000-2010 Comprehensive Plan, or element, or
8 portion thereof in order to comply with this ordinance.

9 **Section 5.** If any word, phrase, clause, paragraph, section or provision of this ordinance
10 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
11 finding shall not affect the other provisions or applications of the ordinance which can be given
12 effect without the invalid or unconstitutional provisions or application, and to this end the
13 provisions of this ordinance are declared severable.

14 **Section 6.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of
15 such conflict hereby repealed.

16 **Section 7.** This ordinance shall become effective immediately upon passage; however, the
17 amendment to the City of Gainesville 2000-2010 Comprehensive Plan shall become effective thirty
18 one (31) days after passage and adoption of this Ordinance unless a petition is filed with the
19 Division of Administrative Hearings pursuant to § 163.3187(3), F.S. In this event, this Ordinance
20 shall not become effective until the state land planning agency issues a final order determining the

DRAFT

6/18/2008

1 adopted amendment to be in compliance in accordance with § 163.3187, or until the Administration
2 Commission issues a final order determining the adopted amendment to be in compliance in
3 accordance with § 163.3187, F.S.

4 **PASSED AND ADOPTED** this _____ day of _____, 2008.

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PEGEEN HANRAHAN, MAYOR

10 ATTEST:

APPROVED AS TO FORM AND LEGALITY:

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15 _____
KURT LANNON,
16 CLERK OF THE COMMISSION

MARION J. RADSON, CITY ATTORNEY

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This ordinance passed this _____ day of _____, 2008.

EXHIBIT "A"
Legal Description for Fat Tuscan Neighborhood Café

The North 100 feet of the West 106 feet of Block 6, Brush's Addition to Gainesville, a Subdivision as per plat thereof, recorded in Deed Book "O", Page 218, of the Public Records of Alachua County, Florida.