

**ORDINANCE NO. 060422**  
**0-06-125**

**An Ordinance of the City of Gainesville, Florida; amending Ordinance Nos. 2678 and 4064, for the Planned Development commonly known as “Greenery Square”; located in the vicinity of the 5402 N.W. Eighth Avenue; amending the terms, conditions and requirements of the planned development as adopted by Ordinance Nos. 2678 and 4064; adopting revised development plan maps and a revised development report relating to the nursery and garden center; providing a severability clause; providing a repealing clause; and providing an immediate effective date.**

**WHEREAS**, the City Plan Board authorized the publication of notice of a Public Hearing, and the petitioner has petitioned the City to amend the planned development formerly known as “Greenery Square”; 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 September 21, 2006; and

**WHEREAS**, notice was given and publication made of a Public Hearing which was then held by the City Commission on October 23, 2006; 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.

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

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

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

6           **Section 1.** The planned development originally adopted by Ordinance Nos. 2678 and 4064,  
7 are amended and superseded by the adoption of this ordinance only as they pertain to the retail nursery  
8 and garden center portion of the planned development, more specifically described in the legal  
9 description attached as Exhibit “1” and made a part hereof as if set forth in full. The remaining portion  
10 of the planned development, commonly referred to as the “residential portion” is not affected, changed  
11 or modified by the adoption of this ordinance.

12           **Section 2.** The development plan report incorporated and made a part of Section 2 of  
13 Ordinance No. 4064 as Exhibit “2” is amended and superseded by the adoption of an amended  
14 development plan report (“Amended Report”) attached hereto as Exhibit “2” and made a part hereof as  
15 if set forth in full. The terms, conditions, and limitations of the Amended Report shall regulate the use  
16 and development of the property described in Section 1 of this ordinance.

17           **Section 3.** The Development Plan maps incorporated and made a part of Section 3 of  
18 Ordinances No. 4064 as Composite Exhibit “3” are amended and superseded by the adoption of a new  
19 layout plan map consisting of 3 pages attached hereto as Composite Exhibit “3” and made a part hereof  
20 as if set forth in full. In the event of conflict between the provisions of the Amended Report and the  
21 new Composite Exhibit “3”, the provisions, regulations, and restrictions of the new layout plan map  
22 (Composite Exhibit “3”) shall govern and prevail. The terms, conditions and limitations of the new

1 Composite Exhibit “3” shall regulate the use and development of the land described in Section 1 of this  
2 Ordinance as provided in Chapter 30, Land Development Code of the City of Gainesville.

3 **Section 4.** Except as expressly amended herein, the provisions of Ordinance Nos. 2678 and  
4 Section 5 of Ordinance No. 4064 shall remain in force and effect.

5 **Section 5.** The following additional conditions, restrictions and regulations shall apply to the  
6 development and use of the land:

7 **Condition 1:** A maximum of 50,000 square feet of building area is permitted.

8  
9 **Condition 2:** The maximum square footage of any single building shall not exceed 10,000  
10 square feet.

11  
12 **Condition 3:** New construction, redevelopment of an existing building (redevelopment means  
13 the value of construction exceeding 80% of the building), or relocation of any  
14 existing building on site will require the building to be brought up to the street  
15 frontage, in accordance with the Central Corridor Overlay District requirements  
16 of the Land Development Code. The build to line, façade, architectural design  
17 and building orientation shall be subject to approval of the development board  
18 during development plan review.

19  
20 **Condition 4:** The commencement of new uses not requiring construction may occur as part of  
21 the ongoing operation of the development, subject to conditions of development  
22 standards within the Planned Development, and a zoning compliance permit.  
23 New uses that generate net, new vehicle trips over the trips specified in the PD  
24 Report shall be required to meet standards as established by the Concurrency  
25 Management Element, Policy 1.1.6., of the City’s Comprehensive Plan.

26  
27 **Condition 5:** Any modifications to an existing building as shown on Sheet 2 of Composite  
28 Exhibit “3” resulting in an increase in square footage of 1,000 square feet or less  
29 will not be required to be relocated or pulled up to the street.

30  
31 **Condition 6:** Existing Outdoor Plant Inventory and Outdoor Seasonal Sales areas shall  
32 maintain the vegetative screening as it currently exists, or the screening may be  
33 made more opaque.

34  
35 **Condition 7:** Within the Existing Outdoor Plant Inventory and Outdoor Seasonal Sales areas,  
36 as depicted on the Planned Development Layout Plan Map, (Sheet 3 of  
37 Composite Exhibit “3”) additional screening from the public rights-of-way shall

1 be designed and constructed, subject to approval of the development review  
2 board during the development plan review.  
3

4 **Condition 8:** All new development or redevelopment shall comply with applicable  
5 development standards and shall implement safe and efficient vehicular,  
6 pedestrian and bicycle circulation, subject to approval of the development review  
7 board during development plan review.  
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9 **Condition 9:** All new construction shall be architecturally consistent with the existing  
10 structures currently on site, subject to approval of the development review board  
11 during development plan review.  
12

13 **Condition 10:** The owner/developer shall provide a vegetative street buffer consistent with  
14 Concurrency Management Element Policy 1.5.5 of the City of Gainesville  
15 Comprehensive Plan requirements for the Transportation Concurrency  
16 Exception Area along NW 55<sup>th</sup> Street and NW 8<sup>th</sup> Avenue that consists of larger  
17 shade trees, understory trees, large shrubs and small shrubs for every 100 linear  
18 feet, subject to approval of the development review board during development  
19 plan review.  
20

21 **Condition 11:** The extent and nature of appropriate buffers between any proposed new use or  
22 new construction shall be subject to approval of the development review board  
23 during development plan review.  
24

25 **Condition 12:** This project shall maintain a minimum of fifteen (15) foot setback along the  
26 north boundary, and a minimum of a twenty (20) foot setback along the east  
27 boundary.  
28

29 **Condition 13:** Building footprints can shift up to 10 percent, subject to meeting all other  
30 requirements of this Planned Development.  
31

32 **Condition 14:** Existing buildings can be increased in square footage, as long as the building  
33 expansion does not result in a square footage that exceeds the 10,000 square  
34 foot maximum for individual buildings, or results in exceeding the overall  
35 allowable total square footage of 50,000 for this project. Any net, new trips  
36 generated over those listed in the Planned Development report shall meet the  
37 required Concurrency Management Element Policy 1.1.6 standards of the City's  
38 Comprehensive Plan.  
39

40 **Condition 15:** In those areas of the project where there are no buildings fronting the street, the  
41 owner/developer shall provide a garden wall and / or fence, with appropriate  
42 vegetative buffer along NW 8<sup>th</sup> Avenue and NW 55<sup>th</sup> Street, subject to approval  
43 of the development review board during development plan review.

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**Condition 16:** Any new construction that cumulatively exceeds 4,000 square feet shall require the existing ground mounted sign to be brought into compliance.

**Condition 17:** Only one (1) monument sign shall be allowed. No secondary sign shall be allowed facing residential uses.

**Condition 18:** All proposed new uses and any accessory uses and associated activities with respect to noise, odors and lighting shall be self-contained on site, and not adversely impact adjacent residential neighborhoods.

**Condition 19:** All proposed new uses for this Planned Development amendment shall correspond to the Standard Industrial Classification Manual (SIC), unless the use is defined by the City of Gainesville Land Development Code. The allowed uses are as follows: Eating Places, Outdoor Cafés, Farmer’s Market, Food Store (MG54), Hardware Store, Miscellaneous Retail (MG59, Excluding Non-Store Retailers and Fuel Dealers), Sporting Goods Store, Bicycle shop, Museums and Art Galleries, All of Division H, Personal Services (MG72, except no Laundry, crematory or escort services allowed), Major Group 87 (Engineering, Accounting, research management) uses and shall be within fully enclosed structures, Major Group 81 (Legal Services), Outdoor Seasonal Sales in accordance with Section 30-67 (except that no promotional sales shall be allowed), and outdoor storage and display in accordance with conditions of this Planned Development.

**Condition 20:** Any new uses associated that increase the intensity of use on the site, or any use that operates after 10:00 P.M., will be located and oriented away from the existing residential development to the north and east of the project, and not adversely impact adjacent residential neighborhoods.

**Condition 21:** Drive-through facilities are not permitted.

**Condition 22:** All outdoor storage and display shall occur only in the interior of the development, and shall not front on NW 8<sup>th</sup> Avenue or NW 55<sup>th</sup> Street. Such outdoor storage shall be included on development plans, and shall be subject to approval of the development review board during development plan review.

**Condition 23:** All new development shall provide bicycle and pedestrian access from adjacent residential properties to the north and east.

**Condition 24:** The building(s) shall be designed and placed so as to minimize the amount of trees to be removed. Tree removal if necessary, shall be done in consultation

1 with the City's Tree Arborist, subject to approval of the development review  
2 board during development plan review.  
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4 **Condition 25:** A maximum of (2) access points shall be permitted to this project and shall be  
5 subject to approval of the development review board during development plan  
6 review.  
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8 **Condition 26:** There shall be no off-site parking for any uses provided by this Planned  
9 Development, and all parking for all uses shall be accommodated on site  
10 according to the City of Gainesville Land Development Code, subject to  
11 approval of the development review board during development plan review.  
12

13 **Condition 27:** Pedestrian connectivity and access must be provided both internally between all  
14 existing and any new proposed construction, as well as connectivity and access  
15 externally from NW 8<sup>th</sup> Avenue and NW 55<sup>th</sup> Street.  
16

17 **Condition 28:** There may be a maximum of one (1) row of parking facing the front of  
18 buildings fronting NW 8<sup>th</sup> Avenue and/or NW 55<sup>th</sup> Street, providing it meets all  
19 City of Gainesville code requirements, and is aesthetically screened subject to  
20 approval of the development review board during development plan review.  
21

22 **Condition 29:** The owner/applicant shall construct, at its sole cost and expense, a sidewalk  
23 along NW 8<sup>th</sup> Avenue that is at least five feet in width, to serve this  
24 development. The portion of the sidewalk along the development frontage shall  
25 not count toward meeting Concurrency Management Element Policy 1.1.6  
26 standards.  
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28 **Condition 30:** All sidewalk connections within the development shall be a minimum of five (5)  
29 feet in width and hard surfaced.  
30

31 **Condition 31:** Prior to second and final reading of this Planned Development Ordinance, the  
32 owner/developer shall sign a TCEA Zone B Agreement for provision of the  
33 required Concurrency Management Element Policy 1.1.6 standards of the City's  
34 Comprehensive Plan. When a development plan is submitted for this  
35 development, the developer shall be required to sign a new TCEA Zone B  
36 Agreement for any net, new trips over that were not addressed in the aforesaid  
37 executed Agreement.  
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39 **Condition 32** Future development, redevelopment, or changes of use that occur shall be  
40 required to meet all relevant Concurrency Management Element requirements,  
41 including Policy 1.1.6 standards of the City's Comprehensive Plan.  
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1           **Section 6.** Any person who violates any of the provisions of this ordinance shall be deemed  
2 guilty of a municipal ordinance violation, and shall be subject to fine or imprisonment as provided by  
3 section 1-6. Each day a violation occurs or continues, regardless of whether such violation is  
4 ultimately abated or corrected, shall constitute a separate offense.

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

8           **Section 8.** All ordinances, or parts of ordinances, resolutions, or parts of resolutions, in  
9 conflict herewith are to the extent of such conflict hereby repealed.

10          **Section 9.** This ordinance shall become effective immediately upon final adoption.

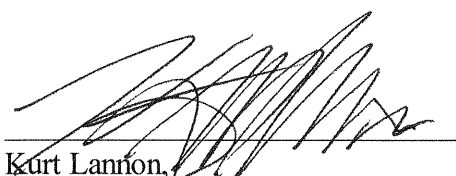
11          **PASSED AND ADOPTED** this 26th day of February, 2007.


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Pegeen Hanrahan, Mayor

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Kurt Lannon,  
Clerk of the Commission

  
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Marion J. Radson, City Attorney  
FEB 27 2007

This ordinance passed on first reading this 12th day of February, 2007.

This ordinance passed on second reading this 26th day of February, 2007.

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