



MEMORANDUM

Office of the City Attorney

LEGISLATIVE ITEM NO. 040657a

Phone: 334-5011/Fax 334-2229
Box 46

TO: Mayor and City Commission **DATE:** May 9, 2005

FROM: City Attorney **FIRST READING**

SUBJECT: **Ordinance No. 0-05-34, Petition 161PDV-04PB**
An Ordinance of the City of Gainesville, Florida; rezoning certain lands within the City and amending the Zoning Map Atlas from "MU-1: 8-30 units/acre mixed use low intensity" and "RMU: Up to 75 units/acre residential mixed use district"; to "Planned Development District"; located between West University Avenue on the South, Northwest 3rd Avenue on the North, Northwest 13th Street (US 441) on the East and Northwest 14th Street on the West; adopting a development plan report and development plan maps; providing conditions and restrictions; providing for enforcement; providing a severability clause; and providing an effective date.

Recommendation: The City Commission adopt the proposed ordinance.

STAFF REPORT

The purpose and intent of this project is to construct a mixed-use development on a 3-block area in the southeast corner of the College Park Special Area Plan. The site is approximately 4.4 acres in size with the mixed-use development (commercial and residential, 400 dwelling units max.) component having a maximum square footage of 650,000 sq. ft. of floor area. The commercial (275,000 sq. ft.) includes such things as storefront retail, eating and drinking establishments, offices and personal services. The residential (375,000 sq. ft.) will consist of apartment condominiums and condo/hotel. A place of religious assembly (University United Methodist Church), having a maximum 39,000 sq. ft. of floor area, is to be rebuilt at the intersection of West University and Northwest 14th Street. In addition, a 450,000 sq. ft., max., underground and above ground structured parking facility are to be built onsite.

In order to achieve the desired intensity and density of development (91 du/ac includes hotel units) being proposed, the building height allowed in the College Park Special Area Plan must be increased from 65 feet (floor to ceiling/top of plate) to 95 feet (top of plate) and 100 feet to peak of roof and the number of stories increased (5-stories to 8-stories), the property must be rezoned to Planned Development.

The petitioner has indicated that the proposed development complies with the District's intent to encourage revitalization and redevelopment of the College Park neighborhood. However, the

Special Area Plan regulations also require any proposed new convenience-type retail, professional and consumer services maintain the scale, character and integrity of the neighborhood.

The petitioner believes that their proposed planned development will accomplish the desired objectives. Their request is for taller structures (8 stories rather than 5 stories and a 95-foot height rather than 65 feet) within one or more mixed-use buildings. The proposed changes to this property will allow it to be redeveloped as an intensive mixed-use urban infill redevelopment that will provide retail and personal services for the existing and future neighborhood residents as well as for University of Florida students and staff.

The proposed uses will also require a land use plan change from MUL (mixed-use low intensity, 8-30 units per acre) and MUR (mixed-use residential, up to 75 units per acre) to PUD. This petition is related to Petition 160LUC-04PB.

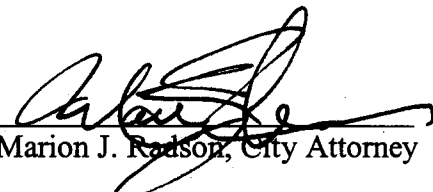
The existing and proposed conditions, provided, are all based on the PD Layout Plan, PD Plan Report and PD Elevations presently before the Commission.

Public notice was published in the Gainesville Sun on November 2, 2004. Letters were mailed to surrounding property owners on November 3, 2004. The Plan Board held a public hearing November 18, 2004.

CITY ATTORNEY MEMORANDUM

The City Commission, at its meeting of December 13, 2004, approved the petition and authorized the City Attorney to draft the proposed ordinance for the rezoning to planned development.

Prepared and
submitted by:



Marion J. Radson, City Attorney

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ORDINANCE NO. _____
0-05-34

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2
3
4 **An Ordinance of the City of Gainesville, Florida;**
5 **rezoning certain lands within the City and amending**
6 **the Zoning Map Atlas from "MU-1: 8-30 units/acre**
7 **mixed use low intensity" and "RMU: Up to 75**
8 **units/acre residential mixed use district"; to "Planned**
9 **Development District"; located between West University**
10 **Avenue on the South, Northwest 3rd Avenue on the**
11 **North, Northwest 13th Street (US 441) on the East and**
12 **Northwest 14th Street on the West; adopting a**
13 **development plan report and development plan maps;**
14 **providing conditions and restrictions; providing for**
15 **enforcement; providing a severability clause; and**
16 **providing an effective date.**

17
18
19 **WHEREAS**, by initiation of a petition by the property owner, publication of notice
20 of a public hearing was given that the Zoning Map Atlas be amended by rezoning certain
21 property within the City from "MU-1: 8 -30 units/acre mixed use low intensity" and
22 "RMU: Up to 75 units/acre residential mixed use district" to "Planned Development
23 District"; and

24 **WHEREAS**, notice was given and publication made as required by law of a public hearing
25 which was then held by the City Plan Board on November 18, 2004; and

26 **WHEREAS**, notice was given and publication made of a public hearing which was then
27 held by the City Commission on December 13, 2004; and

28 **WHEREAS**, the City Commission finds that the amendment of the Planned Development
29 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**, Public Hearings were held pursuant to the published notices described at
6 which hearings the parties in interest and all others had an opportunity to be and were, in fact,
7 heard.

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

10 **Section 1.** The Zoning Map Atlas of the City of Gainesville is amended by
11 rezoning the following described property from "MU-1: 8 -30 units/acre mixed use low
12 intensity" and "RMU: Up to 75 units/acre residential mixed use district" to "Planned
13 Development District";

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

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

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

- 1 1. the development plan report entitled "University Corners, Planned Use
2 District Land Use and Planned Development Zoning Narrative", April 26,
3 2005, attached and identified as Exhibit "B"; and
- 4 2. development plan maps consisting of sheets: 1) "Sheet Index for University
5 Corners" dated April 26, 2005; 2) "Existing Survey and Soils Map", dated April
6 26, 2005; 3) "Existing Conditions Plan" dated April 26, 2005; 4) "PD Layout
7 Plan, First Floor" dated April 26, 2005; 5) "Public Facilities/Service Map" dated
8 April 26, 2005; 6) Elevations A2.00; and 7) Elevations A2.01; identified as
9 Exhibit "C", are incorporated and made a part of this Ordinance as if set forth in
10 full. The terms, conditions, and limitations of the Development Plan shall
11 regulate the use and development of the land described herein zoned to the
12 category of Planned Development District as provided in Chapter 30, Land
13 Development Code of the City of Gainesville (hereinafter referred to as "Land
14 Development Code"). In the event of conflict between the provisions of the
15 development plan report (Exhibit "B") and the development plan maps (Exhibit
16 "C"), the provisions, regulations, and restrictions of the development plan maps
17 (Exhibit "C") shall govern and prevail.

18 **Section 4.** The following additional conditions, restrictions and regulations shall apply to
19 the development and use of the land:

20 Condition 1. The maximum building height permitted onsite shall be limited to 95 feet measured
21 from grade level to the top of the building plate.
22

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1 Condition 2. The maximum number of building stories allowed shall be limited to eight (8) stories
2 above grade level.

3
4 Condition 3. The site shall be developed and regulated by the College Park Special Area Plan
5 design standards, except where the PD Plan Report, PD Layout Plan and PD Elevations deviate
6 from those development guidelines; the uses are those allowed in the PD report.

7
8 Condition 4. Prior to final site plan approval, the owner/developer shall provide the City
9 Manager or designee with a copy of a recorded cross-access and parking agreement between the
10 Place of Religious Assembly and owner/developer.

11
12 Condition 5. There shall be no building encroachment (above ground) into any rights-of-way
13 except for the encroachment of raised balconies, up to a maximum of 4 feet beyond the property
14 line. All projections shall comply with Chapter 32, Construction in the Public Right of Way, of the
15 Florida Building Code; or as may be amended or superseded from time to time.

16
17 Condition 6. Minor shifts in building location, up to 5 feet, may be authorized by City staff
18 during site plan review, as long as the first floor building lot coverage is not increased by more
19 than 1%, as shown on the PD Layout Plan Maps.

20
21 Condition 7. An application for final Concurrency Certification must be filed with the final
22 development plan application submittal.

23
24 Condition 8. The site plan submitted in association with this development must comply with all
25 relevant Transportation Concurrency Exception Area (TCEA) requirements in the Concurrency
26 Management Element of the City's Comprehensive Plan.

27
28 Condition 9. Fire wall separation between the Place of Religious Assembly and mixed-use
29 building and their structured parking areas, separate means of ingress and egress for each
30 building, and separate systems of conditioned air shall comply with the Florida Building Code
31 requirements, or as may be amended or superseded from time to time, that must be considered,
32 related to separate parcels for the place of religious assembly and mixed-use building/s.

33
34 Condition 10. The maximum building height of the parking garage located at north and west
35 property lines, shall be limited to 85 feet measured from grade level to the top of the 8-story
36 guard rail.

37
38 Condition 11. The façade of the garage and/or other retail/commercial use, should be designed so
39 that it (façade) replicates the general design, texture, and color of the principal structures.
40 Streetscape shall include canopies, street shade trees and pedestrian scale lighting.

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1 Condition 12. The loading/mechanical/service area/s shall be screened or made less obtrusive, by
2 utilizing a combination of decorative screening walls, wrought-iron type fences or gates,
3 vegetation and textured or painted materials.

4
5 Condition 13. The cooling tower/s shall be located internally on the northern block site so that
6 they (cooling towers) have minimal impact on the neighborhood to the north of Northwest 3rd
7 Avenue and west of Northwest 14th Street.

8
9 Condition 14. No commercial uses shall be permitted fronting Northwest 14th Street and
10 Northwest 3rd Avenue.

11
12 Condition 15. There shall be no drive-through facilities (banks, fast-food, etc.) allowed within
13 this planned development.

14
15 Condition 16. There shall be no communication towers (transmitting or receiving) that extend
16 beyond the highest point of the roof system of the planned development. Any and all towers
17 shall be located internally on the site, at least 25 feet from the nearest property line. Where
18 possible, communication transmitters and receivers shall be mounted on the building itself.

19
20 Condition 17. The maximum building coverage for the site shall be 75%.

21
22 Condition 18. The maximum impervious area of the site shall be 98%.

23
24 Condition 19. Useable open space (open air plaza, open air arcades on the ground level, and
25 open air pool/rec. areas on multiple building levels) shall not be less than 35% of the site area, or
26 67,000 square feet.

27
28 Condition 20. The owner/developer represents to the City that the proposed development does not
29 and will not exceed the thresholds of a development of regional impact (DRI) as defined in Chapter
30 380, F.S. All pertinent development thresholds (e.g., number of residential dwelling units, office
31 square footage, and retail/service square footage) shall be confirmed by the City Manager or
32 designee at the time of 'Development Plan Review' that the thresholds have not been exceeded.
33 The owner/developer shall include those thresholds in the final Planned Development Report, under
34 'Statistical Information', and also include a statement that the development does not exceed any
35 threshold that requires the development to undergo development of regional-impact review. This
36 ordinance does not permit or allow any development that would constitute a development of
37 regional impact or any development that would require a development-of-regional-impact review.

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**DRI ANALYSIS
UNIVERSITY CORNERS**

Total Site Area (SF): 192,056 (4.409 Acres)
Building Summary

	Parking	Retail/ Rest	Meeting Rooms	Office	Res. DU	Lobby/ Condo/ Hotel	Place of Religious Assembly	Garage	Total
Spaces	1,500								1,500
Units					125	215			340
Total Gross SF		140,000	2,500	95,000	260,000	150,000	29,000	450,000	1,126,500

DRI Threshold Requirements:

	Office Development	Retail/Service Development	Residential DU	Lobby/Condo/ Hotel
Units			125	215
Total Gross SF	97,500	140,000	260,000	150,000
DRI Threshold	300,000	400,000	1,000	350
Percentage Threshold	32.5%	35.0%	12.5%	61.4%
Total Percentage:				141.4%
Total Allowable Percentage:				160.0%

Condition 21. On information provided by the owner/developer and the Alachua County Department of Environmental Protection, the proposed project site has dry-cleaning solvent contamination on a portion of the site, and that site is currently listed in the State of Florida Dry-cleaning Solvent Cleanup Program. As a condition of development, the owner/developer agree to provide the City with a legally binding agreement that the owner/developer agree to indemnify and hold the City harmless including, without limitation its commissioners, attorneys, employees, agents, and assigns from and against any and all suits, actions, legal or administrative proceedings, demands, fines, penalties, losses, injuries, claims, damages, costs and expenses, including interest and reasonable attorney's and paralegal's fees, liabilities and all other obligations (including third party claims for personal injury or real or personal property damage) which owner/developer may incur or be exposed to which result from, are caused by, arise out of or are attributable to any claims arising out of owner/developer's development and use of the

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1 property. Furthermore, owner/developer shall agree to perform the appropriate studies to verify
2 that the proposed development will not have a negative impact on the onsite contamination, or
3 owner/developer shall remove the onsite contamination and/or perform the required remediation
4 as required per state guidelines.
5

6 Condition 22. Vehicular access to the property shall be limited to ingress and egress from
7 Northwest 14th Street, Northwest 3rd Avenue and Northwest 13th Street (US 441). Pedestrian and
8 bicycle traffic shall be able to access the site from sidewalks that surround the four sides of the
9 property. There shall be a system of plazas, arcades and sidewalks that will provide access to all
10 uses throughout the site.
11

12 Condition 23. All construction vehicles shall utilize Northwest 14th Street and Northwest 3rd
13 Avenue for ingress or egress to the site during the construction process, as approved by the City
14 Public Works Department. Construction vehicles shall not access or leave the site through the
15 College Park Neighborhood to the north or west. Access to the site from West University
16 Avenue and Northwest 13th Street (U.S. 441) shall be regulated by FDOT. Work on Northwest
17 14th Street and 3rd Avenue or construction staging on 14th and 3rd shall be regulated by the City
18 Public Works Department.
19

20 Condition 24. The owner/developer shall provide custom-designed bus shelter/s at their mixed-
21 use development on either West University Avenue and also Northwest 13th Street (US 441), or
22 both, at a location/s coordinated with the City Manager through the RTS (Regional Transit
23 System) and the Gainesville Public Works Department.
24

25 Condition 25. Sidewalks abutting NW 13th Street and University Avenue shall be a minimum of
26 12 feet in width. Except where reduced to 9 feet for a limited 40-50 foot portion of the
27 Northwest 13th Street sidewalk located in the southern block. The exact location will be worked
28 out during the site plan review process.
29

30 Condition 26. Any pedestrian walkway systems that cross an entrance, driveway, or parking area
31 needs to be painted and/or textured and identified as a pedestrian crossing on the preliminary and
32 final site plans.
33

34 Condition 27. All pedestrian and bikeways must be ramped for accessibility purposes.

35 Condition 28. The petitioner shall not raze the two southern most blocks until all pertinent City
36 ordinances become effective after second reading. The owner/developer may raze the structures
37 on the northern most block, as needed, to remove contaminated soil from that block, subject to
38 approval of the appropriate governmental regulatory entities.

1
2 Condition 29. The development order approved by the adoption of the Planned Development
3 Zoning Ordinance will be valid for a period of two years from the date of adoption. A building
4 permit must be issued prior to expiration of said period. The City Commission may grant an
5 extension of time for a period of one year, only if the request is in writing to the Commission
6 prior to the 2-year expiration date. The planned development shall be completed within 5 years
7 from the issuance of the building permit. The City Commission may grant an extension to the
8 completion requirement upon good cause shown. Any extension request must be filed with the
9 City at least 6 months prior to the expiration date. If the aforesaid time periods expire with no
10 action being taken, the development order approved by the Planned Development Zoning
11 Ordinance shall be void and have no further force and effect. The City has the option to
12 designate other appropriate land use and zoning consistent with the City's Comprehensive Plan.
13

14 Condition 30. All signage shall comply with the College Park Special Area Plan, requirements,
15 as may be amended from time to time.
16

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

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

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

Exhibit "A"
UNIVERSITY CORNERS

LEGAL DESCRIPTION:

An area of land located in Section 6, Township 10 South, Range 20 East, and further described as:

Commence at a nail and disk, P.L.S. #4788 located at the intersection of the centerline of NW 1st Avenue and the eastern right of way line of NW 14th Street and the Point of Beginning, run North 00° 28' 45" West, a distance 20.01 feet; thence run North 00° 25' 33" West, a distance of 160.16 feet; thence continue to run North 00° 25' 33" West, a distance of 40.00 feet; thence continue to run North 00° 25' 33" West, a distance of 160.30 feet; thence run North 89° 29' 47" East, a distance of 235.50 feet; thence continue to run North 89° 29' 47" East, a distance of 93.91 feet; thence run South 00° 00' 00" East, a distance of 53.33 feet; thence run South 00° 08' 37" West, a distance of 101.91 feet; thence run South 01° 22' 04" West, a distance of 50.02 feet to the point of curvature of a curve having a radius of 4,545.05 feet, a central angle of 01°25'07", a chord bearing of South 02° 23' 32" West, and a chord distance of 112.52 feet; thence continue southwesterly along said curve an arc distance of 112.53 feet; thence run South 03° 06' 06" West, a distance of 33.46 feet; thence continue to run South 03° 06' 06" West, a distance of 60.00 feet; ; thence continue to run South 03° 06' 06" West, a distance of 189.96 feet; thence run South 89° 28' 27" West, a distance of 303.30 feet; thence run North 00° 27' 46" West, a distance of 200.10 feet; thence run North 00° 28' 45" West, a distance 20.01 feet to the Point of Beginning.