

ORDINANCE NO. 070763
0-08-02

An Ordinance of the City of Gainesville, Florida; amending the Planned Development commonly known as “Magnolia Parke PD”, located in the vicinity of 4700 block of Northwest 39th Avenue; by amending City of Gainesville Ordinance Nos. 960941 and 991285 and extending the term of the final development order associated with this Magnolia Parke Planned Development; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, the owner/petitioner has petitioned the City to amend the planned development for the re-establishment of the Magnolia Parke Planned Development; and to make certain amendments to the planned development as more specifically provided herein; 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 November 15, 2007; and

WHEREAS, notice was given and publication made of a Public Hearing which was then held by the City Commission on January 14, 2008; 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

WHEREAS, pursuant to law, notice has also been given by mail to the owners whose properties will be regulated by the adoption of this Ordinance, ten days prior to the adoption of

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1 this ordinance; and

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

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

7 **Section 1.** Table 3 of Exhibit “B” (Development Schedule) attached to Ordinance No.
8 960941 is revised as shown on Exhibit “A”, attached hereto and made a part hereof as if set forth in
9 full.

10 **Section 2.** Conditions 1 and 41 of Section 4. of Ordinance No. 991285, adopted by the City
11 Commission on October 13, 1997, is amended as follows:

12 1. Preliminary concurrency approval shall be granted for a period of five years from the date of
13 final adoption of this ordinance number 991285 070763. When an application is made for
14 development plan approval, the owner/developer shall submit an Application for a Certificate of
15 Final Concurrency. ~~A certificate of Final Concurrency must be applied for when final development~~
16 ~~plans are submitted to the City. At the time Pod I is added to the Transportation Concurrency~~
17 ~~Exception Area (TCEA).~~ aAny future development or redevelopment shall be required to meet all
18 relevant portions of the ~~TCEA~~ Concurrency Management Element of the City of Gainesville
19 Comprehensive Plan, including required Policy 1.1.6 standards in effect at the time of application.

20 ~~41. The planned development is valid for a period of 10 years from the date of final adoption~~
21 ~~of this Ordinance number 960941. The development shall commence construction on or before~~

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1 ~~December 31, 1998. Development will be completed prior to December 31, 2008. The planned~~
2 ~~development or relevant portion of the planned development shall become void after the ten year~~
3 ~~period has expired and the development or portion of the development has not commenced~~
4 ~~construction or the development or relevant portion thereof has failed to proceed under due~~
5 ~~diligence and in good faith to completion resulting in expiration of the building permit or other~~
6 ~~development order. If the planned development or portion thereof expires, an amendment to this~~
7 ~~ordinance shall be required prior to the issuance of any development orders.~~

8 41. The planned development is valid for a period of 5 years from the date of final adoption
9 of this Ordinance. The City Commission may grant an additional 5 year extension if a request
10 for good cause is filed in writing with the Clerk of the Commission at least 30 days prior to the
11 expiration date. The City Commission shall be the sole arbiter of good cause and its decision
12 shall be final. The development order approval by this PD Ordinance shall expire and be deemed
13 null and void after the 5 year period unless an extension is granted by the City Commission. In
14 the event a building permit is issued but the development or portion of the development fails to
15 proceed to completion with due diligence and in good faith resulting in the expiration of a
16 building permit or other development order, then this development order shall expire and be
17 deemed null and void after the expiration of 6 years from the date of final adoption of this
18 Ordinance.

19 **Section 3.** Except as expressly amended by this Ordinance, the remaining provisions of
20 Ordinance Nos. 960941 and 991285 shall remain in full force and effect.

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Section 4. If it is determined by the City Manager that a violation of this Ordinance exists, the City Manager may issue and deliver an order to cease and desist from such violation and to correct the violation, to preclude occupancy of the affected building or area, or to vacate the premises. The City Manager, through the City Attorney, may seek an injunction in a court of competent jurisdiction and seek any other remedy available at law.

Section 5. Any person who violates any of the provisions of this ordinance shall be deemed guilty of a municipal ordinance violation, and shall be subject to fine or imprisonment as provided by section 1-9 of the Gainesville Code of Ordinances. Each day a violation occurs or continues, regardless of whether such violation is ultimately abated or corrected, shall constitute a separate offense.

Section 6. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

Section 7. All ordinances, or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed.

Section 8. This ordinance shall become effective immediately upon final adoption.

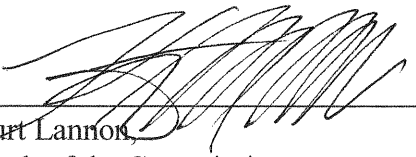
PASSED AND ADOPTED this 10th day of March, 2008.

Peegen Hanrahan
Peegen Hanrahan, Mayor

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1
2 ATTEST:

APPROVED AS TO FORM AND LEGALITY:

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7 
8 Kurt Lannon,
9 Clerk of the Commission


Marion J. Radson, City Attorney

MAR 10 2008

10 This ordinance passed on first reading this 25th day of February, 2008.

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12 This ordinance passed on second reading this 10th day of March, 2008.

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EXHIBIT "A"

TABLE 3 con't: GENERAL STANDARDS AND CONDITIONS

USES	STANDARDS
Transportation Issues Con't	<p>The City's Traffic Engineer that, based on the traffic study, additional conditions are deemed necessary for the inclusion in the planned Development ordinance, a PD amendment may be required.</p> <p>The extension of N.W. 51st Street within the PD shall be designed and constructed by the petitioner in such a manner as to accommodate the future connection of N.W. 42nd Lane within the Huntington development.</p> <p>Sidewalks shall be provided by the developer at his or her own cost and expense, from the public sidewalks along N.W. 39th Avenue to all buildings fronting N.W. 39th Avenue and from all vehicular entrances to the development. Sidewalks shall be provided from all vehicular entrances from N.W. 51st Street.</p> <p>Crosswalks shall be provided where necessary and appropriate and in the general location shown on the PD Layout Plan. The exact location of crosswalks shall be determined at development plan review. Crosswalks shall be safe and efficient design as determined by the Traffic Engineering Department and shall be distinguished by grade, texturing or paint, consistent with the standards contained in the PD Report.</p> <p>Sidewalks shall be provided in the general location as shown on the PD Layout Plan. The exact location of sidewalks shall be determined at development plan review.</p>
Development Schedule	<p>The PD is valid for a period of 40 <u>5</u> years from adoption of the Planned Development Ordinance. <u>The City Commission may grant an additional 5 year extension if a request is made in writing and approved by the City commission prior to the expiration date.</u> The project shall commence construction on or before December 31, 1998. Development will be completed prior to December 31, 2008. The PD or relevant portion of the entire PD shall become invalid if the 40 <u>5</u> year period of the PD has elapsed <u>without the extension</u> and the development or portion of the development fails to proceed under due diligence and in good faith to completion resulting in expiration of the building permit or other development order. If the PD becomes invalid, an amendment of the PD shall be required.</p> <p>Pod "G" (Self Storage) shall only be issued a building certificate of occupancy after a certificate of occupancy has been issued for a minimum of one building in Pod "A", two buildings in Pod "B" and 15,000 gross square feet of building including a residential component in Pod "C".</p>