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ORDINANCE NO. 100229

An Ordinance of the City of Gainesville, Florida; amending the Planned Development commonly known as “Fat Tuscan Planned Development” located in the vicinity of 725 Northeast 1st Street; by amending and restating in its entirety City of Gainesville Ordinance No. 070819 to allow additional uses by right, to allow on-site preparation of fried or barbequed foods, to expand the hours of indoor and outdoor operation, to prohibit after hours events and to increase the amount of indoor and outdoor seating; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, on July 28, 2008, the Gainesville City Commission adopted Ordinance No. 070819 that rezoned the subject property of this Ordinance to Planned Development District and adopted the Development Plan for the “Fat Tuscan 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 July 22, 2010; and

WHEREAS, notice was given and publication made as required by law of a public hearing which was then held by the City Commission on August 19, 2010; and

WHEREAS, the City Commission finds that this amendment and restatement of Ordinance No. 070819 “Fat Tuscan Planned Development” is consistent with the City of Gainesville 2000-2010; and

WHEREAS, pursuant to law, an advertisement no less than two columns wide by 10 inches long was placed in a newspaper of general circulation notifying the public of the Public Hearing to be held in the City Commission Meeting Room, First Floor, City Hall, in the City of Gainesville at least seven (7) days after the first advertisement was published; and

1 **WHEREAS**, a second advertisement no less than two columns wide by 10 inches long
2 was placed in the aforesaid newspaper notifying the public of the second Public Hearing to be
3 held at least five (5) days after the day the second advertisement was published; and

4 **WHEREAS**, public hearings were held pursuant to the published notice at which hearing
5 the parties in interest and all others had an opportunity to be and were, in fact, heard.

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

8 **Section 1.** The Zoning Map Atlas of the City of Gainesville is amended by
9 rezoning the following described property from the zoning category of "OR: 20 units/acre
10 office residential district" to the zoning category of "PD: Planned Development District";
11 See Exhibit "A" attached hereto and made a part hereof as if set forth in full.

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

14 **Section 3.** The Development Plan attached to this Ordinance, which consists of the
15 following, is incorporated and made a part of this Ordinance as if set forth in full:

16 1. the development plan report entitled "PD Report Fat Tuscan Neighborhood Cafe,"
17 dated April 29, 2008, and Addendum to Trip Generation dated October 27, 2010,
18 attached and identified as Exhibit "B"; and

19 2. development plan maps consisting of 7 sheets: 1) "cover sheet dated August 8,
20 2007 and revised October 10, 2007; October 29, 2007; December 10, 2007; February 8,

1 2008 and April 29, 2008; 2) "Existing Conditions Map", dated August 8, 2007 and revised
2 October 10, 2007; October 29, 2007; December 10, 2007; February 8, 2008 and April 29,
3 2008; 3) "Planned Development Layout Plan Map" dated August 8, 2007 and revised
4 October 10, 2007; October 29, 2007; December 10, 2007; February 8, 2008 and April 29,
5 2008; 4) "Building 1st Floor, Cafe Layout," undated; and 5) "East Elevation," undated; 6)
6 "Building Elevations," dated October 29, 2007 and revised December 10, 2007; February
7 7, 2008; February 15, 2008; and April 29, 2008; and 7) Addendum to Trip Generation
8 dated October 27, 2010; all attached and identified as Exhibit "C."

9 The terms, conditions, and limitations of the Development Plan shall regulate the use and
10 development of the land described herein zoned to the category of Planned Development District
11 as provided in Chapter 30, Land Development Code of the City of Gainesville (hereinafter
12 referred to as "Land Development Code"). In the event of conflict between the provisions of the
13 development plan report (Exhibit "B") and the development plan maps (Exhibit "C"), the
14 provisions, regulations, and restrictions of the development plan maps (Exhibit "C") shall govern
15 and prevail.

16 **Section 4.** Any provision of this Ordinance to the contrary notwithstanding, the
17 following additional conditions, restrictions and regulations shall apply to the development and
18 use of the land:

- 19 1. Sheet 4 of the development plan maps, entitled "Building 1st Floor, Café Layout," is
20 provided for illustrative purposes and is not to be considered a binding requirement of this
21 Ordinance, as the exact layout could change during the development review process.

1 2. At the time of application for development plan review, the owner/developer shall
2 file an application for a Certificate of Final Concurrency with the City.

3 3. The development plan must comply with all relevant Transportation Concurrency
4 Exception Area (TCEA) requirements in the Concurrency Management Element of the
5 Comprehensive Plan.

6 4. The permitted uses by right in the planned development shall be limited to
7 ~~professional office use (only those office uses within SIC Industry Groups 801, 802, 803,~~
8 ~~804 and Major groups 81 and 87) or residential use (up to 20du/ac, provide the density~~
9 ~~does not exceed two times the average permitted density of adjacent residential districts),~~
10 ~~as principal uses and an eating place as an accessory use. to the uses listed below. All~~
11 ~~references to Article VI refer to that Article as it exists in the Land Development Code on~~
12 ~~the effective date of this ordinance. All references to MG, GN, and IN refer to those~~
13 ~~classifications as defined in the 1987 edition of the Standard Industrial Classification~~
14 ~~(SIC) Manual published by the U.S. Government Printing Office. All uses not defined by~~
15 ~~reference to the SIC Manual shall be defined as set forth in the Land Development Code~~
16 ~~as it exists on the effective date of this ordinance.~~

- 17 a. Any accessory uses customarily and clearly incidental to any permitted
18 use.
19 b. An eating place as an accessory use to any permitted use, subject to the
20 conditions, limitations and restrictions set forth in the ordinance.
21 c. Community residential homes, in accordance with article VI.
22 d. Compound uses.
23 e. Correspondence schools.
24 f. Day care centers, in accordance with article VI.
25 g. Emergency shelters.
26 h. Family child care home, in accordance with state law.

- 1 i. Large family child care homes, in accordance with article VI.
2 k. Newspaper establishments excluding on-site printing or warehouse
3 facilities.
4 l. Personal fitting and sale of prosthetic or orthopedic appliances.
5 m. Places of religious assembly, in accordance with article VI.
6 n. Professional schools; cannot be located adjacent to property designated for
7 single family on the future land use map of the comprehensive plan.
8 o. Public services vehicles, in accordance with article VI.
9 p. Roominghouse, in accordance with article VI.
10 q. Residential uses up to 20 units per acre; residential density cannot exceed
11 more than two times the average permitted density of adjacent residential
12 districts.
13 r. Sales offices without warehousing, showrooms or retail space.
14 s. Veterinary services (GN-074), in accordance with article VI.
15 t. Landscape and horticultural services (GN-078); offices only, outdoor
16 storage prohibited.
17 u. Building and construction – General contractors and operative builders
18 (MG-15), offices only.
19 v. U.S. Postal Service (MG-43).
20 w. Arrangement of passenger transportation (GN-472), offices only, with no
21 operation of passenger tours from the site.
22 x. Telephone communications, and telegraph and other message services
23 (GN-481 and 482), accessory transmission, retransmission and microwave
24 towers up to and including 100 feet in height in accordance with article VI.
25 y. Drug stores and proprietary (GN-591), only when accessory to and in the
26 same building as health services or offices of physicians, dentists and other
27 health practitioners.
28 z. Finance, insurance and real estate (Div. H), excluding cemetery
29 subdividers and developers (IN-6553).
30 aa. Personal services (MG-72); funeral services and crematories (GN-726) in
31 accordance with article VI.
32 bb. Advertising (GN-731).
33 cc. Consumer credit reporting agencies, mercantile reporting agencies, and
34 adjustment and collection agencies (GN-732).
35 dd. Mailing, reproduction, commercial art and photography and stenographic
36 services (GN-733).
37 ee. Personnel supply services (GN-736).
38 ff. Computer programming, data processing and other computer-related
39 services (GN-737).
40 gg. Detective, guard and armored car services (IN-7381).
41 hh. Health services (GN-801 through 804).
42 ii. Medical and dental laboratories, home health care services and

1 miscellaneous health and allied services not elsewhere classified,
2 excluding blood banks (GN-807 through 809).

3 jj. Legal services (MG-81).

4 kk. Social services not elsewhere classified (GN-839).

5 ll. Membership organizations (MG-86), excluding, civic, social and fraternal
6 associations (GN-864).

7 mm. Engineering, accounting, research, management and related services,
8 excluding, testing laboratories (IN-8734), and facility support management
9 services (IN-8744).

10 nn. Public administration (MG-94, 95 and 96).

11 oo. Bed and breakfast establishment, in accordance with article VI.

12
13 5. The eating place shall not prepare on-site fried or barbequed foods. The operation of
14 an eating place as an accessory use to any permitted use shall be limited as follows:

15
16 ~~6.~~ a. All cooking and food preparation for the eating place shall be conducted
17 indoors.

18 ~~7.~~ b. ~~The indoor hours of operation of the eating place shall be limited to 7 a.m.~~
19 ~~until 4 p.m., Monday through Saturday. The outdoor hours of operation of~~
20 ~~the eating place shall be limited to 9 a.m. until 4 p.m., Monday through~~
21 ~~Saturday. 6:30 a.m. to 10:00 p.m. (Monday through Saturday) and 8 a.m.~~
22 ~~to 5 p.m. (Sunday). There shall be no activities (e.g. parties, music,~~
23 ~~outdoor seating or service) after 10:00 p.m. (Monday through Saturday)~~
24 ~~and 5:00 p.m. (Sunday). Solid waste collection/pickup shall not take place~~
25 ~~prior to 9 a.m., Monday through Saturday, with no pickup on Sunday.~~

26 ~~8.~~ c. The eating place shall be limited to a maximum of ~~30~~ 70 seats, inclusive of
27 indoor and outdoor seats; as may be further limited by fire safety and
28 building capacity limitations.

29
30 ~~9.6.~~ No music or amplified sound of any type or nature shall be played or broadcast
31 outside of the walls of a fully enclosed building.

32
33 ~~10.7.~~ The owner/developer shall install and maintain a site-built, 6-foot privacy stockade
34 fence with pickets facing out, along the south property line, along the east property line and
35 immediately north of the plaza area for screening and aesthetic purposes.

36 ~~11.8.~~ The planned development shall provide bicycle racks to accommodate twelve (12)
37 bicycles.

1 ~~12.9.~~ All signage associated with this planned development shall be regulated by the
2 City of Gainesville Land Development Code.

3 ~~13.10.~~ Except as expressly provided herein, the use, regulations and development of the
4 property shall be governed by the “OR: 20 units/acre office residential district” zoning
5 district.

6 ~~14.11.~~ This Ordinance does not eliminate the necessity to obtain any required federal,
7 state, local and special district authorizations prior to the start of any activity approved by
8 this Ordinance. This Ordinance does not convey to the owner/developer or create in the
9 owner/developer any property right, or any interest in real property, nor does it authorize
10 any entrance upon or activities on property which is not owned or controlled by the
11 owner/developer, or convey any rights or privileges.

12 ~~15.12.~~ The development shall comply with or exceed the Traditional City Special Area
13 Plan standards as provided in the City of Gainesville Land Development Code.

14 ~~16.13.~~ The owner/developer shall obtain all necessary permits and commence and
15 complete construction of the planned development within three years from the effective
16 date of the rezoning as provided in Section 9 of ~~this~~ Ordinance No. 070819. In the event
17 either the owner/developer fails to obtain the permits, or the permits are issued but the
18 development, or a portion of the development, fails to proceed to completion within the
19 three year period, then the development order granted by ~~this~~ Ordinance No. 070819 shall
20 expire and be deemed null and void at the expiration of the three year period. The City
21 Commission may grant a one-year extension to the three year period, if a request for good

1 cause is filed in writing with the Clerk of the Commission at least thirty days prior to the
2 expiration date. The City Commission shall be the sole arbiter of good cause and its
3 decision shall be final. If the three year period, or one year extension thereof, expires
4 without completion of construction of the development, thereby rendering the
5 development order void, then the City will designate other appropriate zoning consistent
6 with the Comprehensive Plan.

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

12 **Section 6.** If it is determined by the City Manager that a violation of this Ordinance exists, the
13 City Manager may issue and deliver an order to cease and desist from such violation to correct the
14 violation, to preclude occupancy of the affected building or area, or to vacate the premises. The City
15 Manager, through the City Attorney, may seek an injunction in a court of competent jurisdiction and
16 seek any other remedy available at law,

17 **Section 7.** If any word, phrase, clause, paragraph, section or provision of this ordinance or
18 the application hereof to any person or circumstance is held invalid or unconstitutional, such
19 finding shall not affect the other provisions or applications of the ordinance which can be given
20 effect without the invalid or unconstitutional provisions or application, and to this end the
21 provisions of this ordinance are declared severable.

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

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

4

5 PASSED AND ADOPTED this 16th day of December, 2010.

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CRAIG LOWE
MAYOR


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11

12 ATTEST:

Approved as to form and legality

13
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15


KURT M. LANNON
CLERK OF THE COMMISSION


MARION J. RADSON
CITY ATTORNEY DEC 16 2010

18

19 This Ordinance passed on first reading this 2nd day of December, 2010.

20 This Ordinance passed on second reading this 16th day of December, 2010.

EXHIBIT "A"
to Ordinance #100229

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.

PD REPORT FAT TUSCAN NEIGHBORHOOD CAFE



Petition No. 112 PDV-07PB
April 29, 2008

Code: Words ~~stricken~~ are deletions; words underlined
are additions; as a result of Ordinance No. 100229

Exhibit "B"
to Ordinance #100229
(15 pages)

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ADJOINING PROPERTIES

I. PURPOSE AND INTENT

The purpose of the PD proposal is to allow the creation of a pedestrian oriented neighborhood café in an office/residential district. The neighborhood café will be created in an existing historic structure currently used as a professional office. The structure has recently been restored and is currently functioning as an architect's office. The existing structure is contained in the Northeast Residential Historic District and is also in a Special Area Planned District designated as Traditional City. The Traditional City designation that has been added to the area *"has been established to improve the sense of place and community; improve the environment for business, including smaller, locally-owned businesses; support a healthy economy by providing a vibrant mix of commercial, office, retail and residential uses in close proximity; reduce crime by encouraging a 24 hour mix of uses and a significant number of pedestrians; strike a balance between the needs of the car and pedestrian by creating a pleasant ambiance and interesting people scaled features, make the pedestrian feel safe and convenience; increase transit viability; and improve independence of people without access to a car"* (SPECIAL AREA PLAN FOR TRADITIONAL CITY, ORDINANCE NO. 970452, 0-98-61). The PD rezoning will help meet the objectives of the Traditional City by providing a pedestrians access to a small café in an historic structure that they can walk to. **The unique aspect of this location is its pedestrian accessibility. It can be access via tree lined neighborhood streets that encourage patrons to walk and not drive to this destination.** The addition of the cafe will contribute to the vitality of this area.

The neighborhood café will be opened to serve breakfast and lunch ~~six (6) days a week, Monday-Saturday from 7:00 AM to 4:00 PM. The outdoor portion shall open from 9:00 AM to 4:00 PM.~~ The proposed development is unique and will provide an eatery within a short walking distance of the many attorneys' offices, city offices, and residences and will be across the street from a high occupancy multi-family complex. The scale of the eatery will be small ~~providing a total of no more than 30 seats.~~ The ~~total of 30~~ seats will be divided between the interior of the building and the courtyard area to the rear of the lot. The courtyard will provide seating in a garden setting complete with water features and extensive landscaping.

The current zoning, OR, will not allow an eating establishment.

This petition is for a deviation in the OR zoning to allow a small neighborhood café within this district.

a. CONFORMANCE WITH PD OBJECTIVES

The PD will conform to the Comprehensive Plan for this area. The proposed zoning change is for the creation of a minor use as a café in a structure where the primary use is office. The Future Land Use Map shows the area as Office. Concurrency requirements should have little impact on the proposed development. There will be no additional infrastructure required.

b. CONCURRENCY

The PD will not add any new demands on infrastructure. The proposed zoning change is for an additional use in an existing structure. Pedestrian patronage will be encouraged by the location and the proposed site modifications (i.e. sidewalk connections, minimal existing parking). The café addition should have little or no impact on the transportation network. ~~A Trip Generation Analysis yielded an additional 152.90 trips/day (see the Trip Generation Analysis attached).~~ Since the project will not require any additional parking or additional bathroom or kitchen facilities in the existing structure, no impacts to the existing utilities or stormwater management systems is anticipated.

c. INTERNAL COMPATIBILITY

The proposed neighborhood café will be totally contained within the existing structure with the exception of a small courtyard café area to the rear of the building/site. ~~Music shall not be played outside of the walls of the office building.~~ All cooking and food preparation shall be conducted indoors. ~~There will be no preparation of fried or barbecued foods.~~

d. EXTERNAL COMPATIBILITY

The PD is bordered by RMF-8 zoning on the north, RMF-5 to the east, OR to the south and OR and MU-1 to the west sides of the project. The current land uses surrounding the project to the north and east are multi-family and single family residential. The current land uses to the south and west are professional office.

e. INTENSITY OF DEVELOPMENT

There is a limited percentage of building and site change and seats proposed.

f. USABLE OPEN SPACE

A courtyard garden in the rear will serve as the open space for the project.

g. ENVIRONMENTAL CONSTRAINTS

There are no apparent environmental constraints to the development of the café. The proposed outdoor element is in an existing landscaped area.

h. EXTERNAL TRANSPORTATION ACCESS

~~As was stated earlier the project will generate an additional 152.90 trips/day.~~ The site is approximately 260 feet east of Main Street, a four-lane arterial highway. An external pedestrian access point will be added to the site from the existing sidewalk on NE 1st Street. Little impact on the transportation network is anticipated with this project.

i. INTERNAL TRANSPORTATION ACCESS

The access to the site is currently from NE 1st Street and NE 8th Avenue. These access points will remain intact with the proposed PD development.

j. PROVISION FOR THE RANGE OF TRANSPORTATION CHOICES

On-street parking along NE 1st Street currently exists and an off-street parking lot with nine (9) spaces is contained within the site. Currently, there are six (6) bicycle parking spaces. Six (6) new spaces will be added for a total of twelve (12) bicycle spaces on site. Pedestrian access exists from the sidewalks along the property frontage at NE 1st Street and NE 8th Avenue.

II. STATISTICAL INFORMATION

- a. Total acreage of the site: 0.23 acres
- b. Existing Building Coverage: 14.3%
- c. Existing Impervious Ground Coverage: 8,204 SF = 77.39%
- d. Maximum and Minimum Number of Dwelling Units: 20
- e. Listing of Nonresidential Land Uses by Type:
 - i. Professional Office
 - ii. Eating Establishment (Neighborhood Café)
- f. Maximum Area of Each Use Area:
 - i. Professional Office – 1665 SF
 - ii. Café (indoor)– 874 SF
- g. Open Space for Public Use: 433 SF = 4.1%

III. STORMWATER MANAGEMENT PLAN

A brick paved courtyard is proposed for the rear of the site. The total area of the paving (impervious area) will be 460 SF which is less than the 500 SF required for stormwater treatment.

IV. DESIGN STANDARDS FOR STREETS AND PARKING

The site lies totally within the Traditional City Special Area Plan and is exempt from parking requirements.

V. DEVELOPMENT SCHEDULE

The neighborhood café will be created within 90 days of the approval of the PD zoning.

VI. UNIFIED SIGNAGE PLAN:

Signage shall meet the City of Gainesville signage regulations LDC.

VII. ENUMERATION OF DIFFERENCES BETWEEN OR AND THE PROPOSED PD STANDARDS

<u>Parameter</u>	<u>OR</u>	<u>PD</u>
Density	20 units/ac	20 units/ac
Front Setback	10'	8'(existing)
Side Street	10'	10'
Side Interior	0'	0'
Rear Setback	0'	0'
Min. Lot Width	60'	100'
Min Lot Depth	90'	106.0'
Min Lot Area	6000 SF	10,600 SF
Max Bld Ht.	35'	35'

TABLE KEY:

XX.X Meets or exceeds OR current zoning

XX.X Does not meet OR current zoning

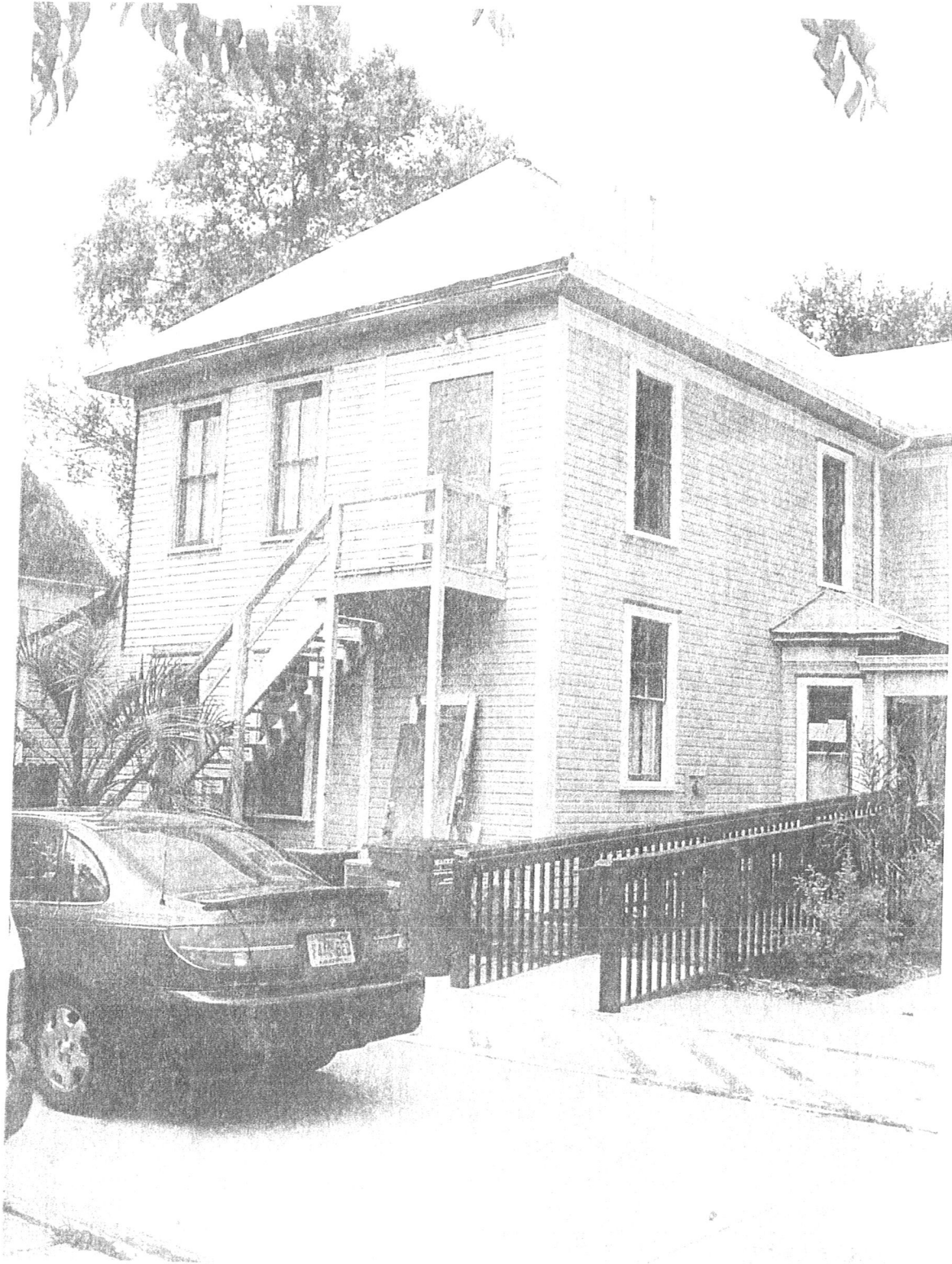
FAT TUSCAN NEIGHBORHOOD CAFE
April 29, 2008



Proposed NE 1st Street pedestrian entrance from the sidewalk. Looking NE.



Looking south from the existing parking lot.



Looking SW from the existing parking lot.



The proposed courtyard garden outdoor cafe area.



The existing residence to the rear of the proposed courtyard garden cafe area looking east.



The existing multi-family structure to the rear of the existing parking lot looking east.



The existing Multi family complex across the street and to the north located on NE 8th Avenue.



**The existing attorneys office across the street and to
the west on NE 1stth Avenue.**

ADDENDUM TO
TRIP GENERATION FOR FAT TUSCAN CAFÉ)
AS AMENDED OCT. 27, 2010

All Trip Generation Data is from the *Trip Generation, 8th Edition, Institute of Transportation Engineers handbook.*

High – Turnover (Sit Down) Restaurant Project Data:

- 40 Additional Seats

High Turnover (Sit-Down) Restaurant Average Daily Trip ADT Generation:

- Trip Generation per Seat per Day + 4.83 (average rate)
- ADT = (40 additional seats) (4.83 trips/seat/day)
 = 193.2 trips/day

High Turnover (Sit-Down) Restaurant Peak Hour of Adjacent Street Traffic, One Hour Between 7 and 9 A.M.:

- Trip Generation Per Seat = 0.47 (average rate)
- 1 Hour Rate = (40 additional seats) (0.47 trips/seat/hour)
 = 18.8 trips/hour
- Directional Distribution = 52% Entering = 9.77 trips
- Directional Distribution = 48 % Exiting = 9.02 trips

High Turnover (Sit-Down) Restaurant Peak Hour of Adjacent Street Traffic, One Hour Between 4 and 6 P.M.:

- Trip Generation per Seat = 0.41 (average rate)
- 1 Hour Rate = (40 additional seats) (0.41 trips/seat/hour)
 = 16.4 trips/hour
- Directional Distribution = 58% Entering = 9,51 trips
- Directional Distribution = 42% Exiting = 6.88 trips