

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

3 **WHEREAS**, notice has also been given by mail to the owner whose property will be
4 regulated by the adoption of this Ordinance, ten days prior to the adoption of this ordinance; and

5 **WHEREAS**, Public Hearings were held pursuant to the published and mailed notices
6 described at which hearings the parties in interest and all others had an opportunity to be and were, in
7 fact, 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 the zoning category of "OR: 20 units/acre
12 office residential district" to the zoning category of "PD: Planned Development District";

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

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

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

- 20 1. the development plan report entitled "PD Report Fat Tuscan Neighbor-
21 hood Café," dated April 29, 2008, attached and identified as Exhibit "B"; and
- 22 2. development plan maps consisting of 6 sheets: 1) "cover sheet dated August 8,
23 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, Café Layout," undated; and 5) "East Elevation," undated;
6 and 6) "Building Elevations," dated October 29, 2007 and revised December 10, 2007;
7 February 7, 2008; February 15, 2008; and April 29, 2008; all attached and identified as
8 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 following
17 additional conditions, restrictions and regulations shall apply to the development and use of the land:

- 18 1. Sheet 4 of the development plan maps, entitled "Building 1st Floor, Café Layout," is
19 provided for illustrative purposes and is not to be considered a binding requirement of
20 this Ordinance, as the exact layout could change during the development review
21 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 professional
7 office use (only those office uses within SIC Industry Groups 801, 802, 803, 804 and
8 Major Groups 81 and 87) or residential use (up to 20 du/ac, provided the density does
9 not exceed two times the average permitted density of adjacent residential districts), as
10 principal uses, and an eating place as an accessory use.
- 11 5. The eating place shall not prepare on-site fried or barbequed foods.
- 12 6. All cooking and food preparation for the eating place shall be conducted indoors.
- 13 7. The indoor hours of operation of the eating place shall be limited to 7 a.m. until 4 p.m.,
14 Monday through Saturday. The outdoor hours of operation of the eating place shall be
15 limited to 9 a.m. until 4 p.m., Monday through Saturday. Solid waste collection/pickup
16 shall not take place prior to 9 a.m., Monday through Saturday, with no pickup on
17 Sunday.
- 18 8. The eating place shall be limited to a maximum of 30 seats, inclusive of indoor and
19 outdoor seats.
- 20 9. No music or amplified sound of any type or nature shall be played or broadcast outside
21 of the walls of a fully enclosed building.

- 1 10. The owner/developer shall install and maintain a site-built, 6-foot privacy stockade
2 fence with pickets facing out, along the south property line, along the east property line
3 and immediately north of the plaza area for screening and aesthetic purposes.
- 4 11. The planned development shall provide bicycle racks to accommodate twelve (12)
5 bicycles.
- 6 12. All signage associated with this planned development shall be regulated by the City
7 of Gainesville Land Development Code.
- 8 13. Except as expressly provided herein, the use, regulations and development of the
9 property shall be governed by the “OR: 20 units/acre office residential district”
10 zoning district.
- 11 14. This Ordinance does not eliminate the necessity to obtain any required federal,
12 state, local and special district authorizations prior to the start of any activity
13 approved by this Ordinance. This Ordinance does not convey to the
14 owner/developer or create in the owner/developer any property right, or any
15 interest in real property, nor does it authorize any entrance upon or activities on
16 property which is not owned or controlled by the owner/developer, or convey any
17 rights or privileges.
- 18 15. The development shall comply with or exceed the Traditional City Special Area
19 Plan standards as provided in the City of Gainesville Land Development Code.
- 20 16. The owner/developer shall obtain all necessary permits and commence and
21 complete construction of the planned development within three years from the
22 effective date of the rezoning as provided in Section 9 of this Ordinance. In the

1 event either the owner/developer fails to obtain the permits, or the permits are
2 issued but the development, or a portion of the development, fails to proceed to
3 completion within the three year period, then the development order granted by
4 this Ordinance shall expire and be deemed null and void at the expiration of the
5 three year period. The City Commission may grant a one-year extension to the
6 three year period, if a request for good cause is filed in writing with the Clerk of
7 the Commission at least thirty days prior to the expiration date. The City
8 Commission shall be the sole arbiter of good cause and its decision shall be final.
9 If the three year period, or one year extension thereof, expires without completion
10 of construction of the development, thereby rendering the development order void,
11 then the City will designate other appropriate zoning consistent with the
12 Comprehensive Plan.

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

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

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.