

**LEGISLATIVE #**

**100776A**

ORDINANCE NO. 100776

An ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan Future Land Use Element Policy 4.3.5 for the Hatchet Creek Planned Use District; by deleting policy 4.3.5.f in its entirety; providing directions to the city manager; providing time limitations for PD zoning; providing a severability clause; providing a repealing clause; and providing an effective date.

WHEREAS, by initiation of a petition by property owner, publication of notice of a public hearing that the Future Land Use Map be amended by deleting policy 4.3.5.f in its entirety; and

WHEREAS, notice was given and publication made as required by law and a public hearing was held by the City Plan Board on February 24, 2011; 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 this proposed ordinance and 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 day the first advertisement was published; and

WHEREAS, pursuant to law, after the public hearing at the transmittal stage, the City of Gainesville transmitted copies of this proposed change to the State Land Planning Agency; and

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

WHEREAS, public hearings were held pursuant to the published and mailed notices described above at which hearings the parties in interest and all others had an opportunity to be and

1 were, in fact, heard.

2 WHEREAS, prior to adoption of this ordinance the City Commission has considered the  
3 comments, recommendations and objections, if any, of the State Land Planning Agency.

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

6 Section 1. Goal 4, Objective 4.3 of the Future Land Use Element of the City of Gainesville  
7 2000-2010 Comprehensive Plan is amended by deleting Policy 4.3.5.f in its entirety. Except as  
8 amended herein, Goal 4, its Objectives and its Policies, all remain in full force and effect:

9 Goal 4

10 The land use element shall foster the unique character of the City by directing growth and  
11 redevelopment in a manner that uses neighborhood centers to provide goods and services to city  
12 residents; protects neighborhoods; distributes growth and economic activity throughout the city in  
13 keeping with the direction of this element; preserves quality open space and preserves the tree  
14 canopy of the city, the land use element shall promote statewide goals for compact development  
15 and efficient use of infrastructure.

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17 Objective 4.3  
18 The City shall establish protection and enhancement policies, as needed, for selected neighborhood  
19 (activity) and regional centers.

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21 Policy 4.3.5 Due to the unique infrastructure and environmental constraints of the Hatchet Creek  
22 Planned Use District (the "PUD"), as depicted on the map labeled Hatchet Creek  
23 PUD Area in the Future Land Use Map Series A, the PUD shall be governed by the  
24 following conditions:

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- 26 a. The residential density and allowable residential uses within the Planned
- 27 Use District is a maximum of 1,200 residential units and 300 Assisted
- 28 Living Facility (ALF) beds.
- 29
- 30 b. The non-residential and non-ALF intensity and allowable non-residential
- 31 and non-ALF uses within the PUD is a maximum of 200,000 square feet
- 32 of non-residential uses. This 200,000 square feet may be used for any

1 combination of the following: up to 100,000 square feet of retail space, up  
2 to 100,000 square feet of office space and any remaining square footage  
3 for the Business Industrial uses that are specified in the Planned  
4 Development (“PD”) zoning ordinance. In addition, the PUD may include  
5 accessory uses customarily and clearly incidental to a residential  
6 community, such as recreational facilities, and may include parks, open  
7 space, conservation, open space buffers and mitigation areas. Any  
8 accessory uses shall be for the exclusive use of the residents of the PUD  
9 and their guests and shall be specified in the PD zoning ordinance.

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11 c. The actual amount and types of residential units, ALF beds, and non-  
12 residential development area will be specified in the PD zoning ordinance  
13 as limited by the city, county and state development restrictions and  
14 constraints, including but not limited to, wetlands and surface water  
15 regulations, wellfield protection, floodplain requirements, concurrency and  
16 airport hazard zoning regulations.

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18 d. The allowable uses within the PUD shall be restricted as described below  
19 and as more specifically provided in the PD zoning ordinance. For  
20 purposes of this PUD, the 60-75 DNL Noise Contour is the area depicted  
21 as the 60 DNL Noise Contour, the 65 DNL Noise Contour, the 70 DNL  
22 Noise Contour and the 75 DNL Noise Contour on Attachment 3 to the  
23 Appendix F – Airport Hazard Zoning Regulations, Chapter 30, Gainesville  
24 Code of Ordinances adopted on December 3, 2009 by Ordinance 090384.  
25 A copy of Attachment 3 is attached hereto as Exhibit “B,” which consists  
26 of the map entitled “Airport Noise Zone Map – City of Gainesville”  
27 prepared by the City of Gainesville Planning Department GIS Section  
28 08/09. The source of the map is the Pt. 150 Study 2012 Noise Exposure  
29 Map, as stated on the map.

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31 1. Within the 60-75 DNL Noise Contour, subject to the Airport  
32 Hazard Zoning Regulations:

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34 (a) No residential development, including ALF beds, is  
35 allowed.

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37 (b) Non-residential (retail, office and accessory uses to  
38 residential) development is allowed, as well as recreational  
39 facilities as accessory uses that are customarily and clearly  
40 incidental to a residential community or parks, open space,  
41 conservation, open space buffers and mitigation areas;

except that on lands with the underlying land use designation of Industrial, the non-residential development shall be limited to certain Business Industrial (BI) zoning uses that are specified in the PD zoning ordinance.

2. Outside of the 60-75 DNL Noise Contour, subject to the Airport Hazard Zoning Regulations, to the extent same are applicable:

(a) Residential development, including ALF beds, is allowed.

(b) Non-residential (retail, office and accessory uses to residential) development is allowed, as well as recreational facilities as accessory uses that are customarily and clearly incidental to a residential community or parks, open space, conservation, open space buffers and mitigation areas.

e. All non-residential areas in the PUD shall be connected to the residential areas in the PUD by an interior roadway system and/or a pedestrian/bicycle/golf cart system. All pedestrian sidewalk systems in the PUD shall comply with the Florida Accessibility Code for Building Construction requirements.

~~f. A PD (planned development) zoning ordinance consistent with the PUD must be adopted by the City Commission within 18 months of the effective date of the land use change. The obligation to apply for and obtain PD zoning shall be on the owner/developer. If the aforesaid zoning ordinance is not adopted within the 18-month period, then the overlay PUD shall automatically be null and void and of no further force and effect and the overlay land use category shall ministerially be removed from the Future Land Use Map, leaving the original and underlying land use categories in place. The timely filing of an extension application by the owner/developer to extend the aforesaid 18-month period shall toll the expiration date until final City Commission action on the extension application.~~

f. g. A current and complete wetlands survey for the entire property shall be submitted to the City of Gainesville and to the St. Johns River Water Management District at the time of application for PD zoning. Formal approval of wetland delineations for the entire property by the water management district is required prior to the public hearing on the PD zoning petition by the City Plan Board.

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2       g.h. All direct impacts to jurisdictional wetlands, wetland buffers, and  
3 regulated creeks shall be avoided to the extent practicable. All  
4 unavoidable, direct wetland and creek impacts shall be mitigated in accord  
5 with applicable City of Gainesville and water management district  
6 requirements. Any required on-site mitigation will be part of and will not  
7 supersede other wetland mitigation requirements of the comprehensive  
8 plan, land development code, and the water management district. There  
9 shall be no net loss of wetland acreage and function within the PUD. In  
10 addition, if wetland impacts are proposed at the time of application for PD  
11 zoning or a subsequent application for development approval, the  
12 owner/developer shall submit a plan for improvement of surface water and  
13 wetland function within the Planned Use District and, subject to City  
14 review and approval, the plan of improvement shall be incorporated into  
15 the PD zoning ordinance or subsequent development approval.  
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- 17       h.i. All pedestrian and/or bicycle pathways, trails, and sidewalks shall be  
18 located outside of wetland buffer areas and outside of creek buffer areas,  
19 except as may be established and shown for good cause by the  
20 owner/developer and then provided for in the PD zoning ordinance.  
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- 22       i.j. Protection of the State-listed animal species Gopher tortoise (*Gopherus*  
23 *polyphemus*) listed as a Species of Special Concern in Rule 68A-27.005,  
24 Florida Administrative Code, located in the remnant sandhills east of the  
25 Ironwood Golf Course, and documented in the applicant's Hatchet Creek  
26 Planned Use District Report dated March 2007, is required and shall be  
27 established in the PD zoning ordinance. Protection of the documented  
28 population may be accomplished by establishing a designated protection  
29 area in the PD zoning ordinance that meets all applicable requirements of  
30 the City's land development code and all applicable requirements of the  
31 Florida Administrative Code.  
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- 33       j.k. The owner/developer shall submit a report (in accordance with the  
34 requirements of the environmental regulations in the City's land  
35 development code) with the application for PD zoning. As part of this  
36 report, the highest-quality uplands shall be delineated and development  
37 within these high-quality areas shall be restricted.  
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- 39       k.l. The application for PD district zoning shall include requirements for the  
40 use of native vegetation landscaping and for the removal of invasive trees  
41 and shrubs.

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l.m. A master stormwater management plan for the entire PUD shall be prepared by the owner/developer. The plan shall include provisions for protecting the water quality of Little Hatchet Creek, particularly with respect to stormwater runoff from any future development within the planned use district. A conceptual master stormwater management plan application shall be submitted at the time of application for PD zoning. The subsequent master stormwater management plan must be approved by the City Manager or designee prior to final development plan approval. The master stormwater management plan for the project shall be modified for undeveloped phases in order to comply with the statewide water quality rule once it is adopted. The water quality leaving the site shall be addressed in the PD zoning ordinance.

m.n. Buffer and setback requirements for the wetlands and creeks in the PUD shall be specified in the PD zoning ordinance and shall be in accordance with the environmental regulations in the City’s land development code, based upon review of the required report that shall be submitted with the application for PD zoning.

n.o. Buffer requirements pertaining to adjacent uses (including the municipal golf course) will be provided by the owner/developer in the application for PD zoning and, subject to City review and approval, shall be included in the PD zoning ordinance. These buffers shall be designed to minimize the impact on and adequately buffer the adjacent uses.

o.p. The PUD shall not vest the development for concurrency. The owner/developer is required to apply for and meet concurrency management certification requirements, including all relevant policies in the Concurrency Management Element, at the time of application for PD zoning. Transportation modifications which are required due to traffic safety and/or operating conditions, and which are unrelated to transportation concurrency shall be provided by the owner/developer.

p.q. Internal roadways shall be designed to provide for bicycle and pedestrian access and connectivity, and shall include traffic calming (low design speed) methods (e.g., speed tables, speed humps, “neck-downs”, roundabouts) acceptable to the City of Gainesville in accordance with the traffic calming practices outlined by the Institute of Transportation Engineers.

1           q.f. Sidewalks shall be provided on all internal streets. Sidewalk connections  
2           shall be made from the internal sidewalk system to the existing and  
3           planned public sidewalks along the development frontage. All sidewalks  
4           and sidewalk connections shall be a minimum of 5-feet in width, except as  
5           may be established and shown for good cause by the owner/developer and  
6           then provided for in the PD zoning ordinance.  
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8           r.s. The PUD shall provide for transit access (either on site or on abutting  
9           roadways) and shall include construction of an appropriate number of  
10          transit shelters, as determined at the PD zoning stage and specified in the  
11          PD zoning ordinance.  
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13          s.t. A limited number of drive-through facilities shall be allowed on the street  
14          frontages of NE 53<sup>rd</sup> Avenue and NE 39<sup>th</sup> Avenue as determined at the PD  
15          zoning stage and specified in the PD zoning ordinance. No direct access  
16          from NE 39<sup>th</sup> Avenue or NE 53<sup>rd</sup> Avenue shall be allowed for these drive-  
17          through facilities. All access to the drive-through facilities shall be from  
18          the internal roadway system (the internal roadway system shall include  
19          public and private roads and internal driveway systems) in the PUD.  
20          Additional drive-through facilities that are entirely internal to the PUD  
21          shall be determined in the PD zoning ordinance. The PD zoning ordinance  
22          shall specify the design criteria for all drive-through facilities and shall  
23          include a phasing schedule to ensure a mix of drive-through facilities,  
24          residential uses, and other commercial/office uses in the planned use  
25          district. The trip generation associated with drive-through facilities shall  
26          limit the total number of drive-through facilities such that the total  
27          maximum trip generation shown for the 100,000 square feet of shopping  
28          center use as calculated by the traffic study dated 4/3/08 (prepared by  
29          GMB Engineers & Planners, Inc.) as updated 11/19/09 by MPH  
30          Transportation Planning, Inc. is not exceeded for the PUD.  
31

32          t.u. A maximum of two access points, unless additional access points are  
33          approved by the FDOT and the City of Gainesville, shall be allowed along  
34          NE 39<sup>th</sup> Avenue, subject to the final approval of FDOT. Any proposed  
35          reconfiguration of the existing road connection to the Ironwood Golf  
36          Course is subject to FDOT and City approval at the PD zoning stage.  
37          Boulevard-type driveways with the ingress/egress split by a landscaped  
38          median and other entry-type features shall count as a single access point.  
39          These access points shall be specified in the PD zoning ordinance.  
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41          u.v. A maximum of two access points shall be allowed along NE 53<sup>rd</sup> Avenue



1 unless additional access points are approved by Alachua County and the  
2 City of Gainesville, in accordance with the Alachua County Access  
3 Management regulations, and the locations shall be included in the PD  
4 zoning application. All access points are subject to Alachua County and  
5 City of Gainesville approval at the planned development zoning stage and  
6 shall be specified in the PD zoning ordinance. To minimize traffic  
7 impacts from the Hatchet Creek PUD on NE 53<sup>rd</sup> Avenue, the access  
8 points on NE 53<sup>rd</sup> Avenue shall be interconnected with the internal public  
9 or private road system in the Hatchet Creek development. The private  
10 road system interconnections shall be interpreted to include internal  
11 driveway systems.

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13 v.w. A maximum of one access point shall be allowed along NE 15<sup>th</sup> Street.  
14 Any proposed access point along NE 15<sup>th</sup> Street shall be included in the  
15 planned development district zoning application. Any proposed access  
16 point is subject to City of Gainesville approval at the planned development  
17 zoning stage, and shall be specified in the PD zoning ordinance.

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19 w.x. Additional, limited emergency access will be allowed if the need for such  
20 is identified and the access is approved by local government agencies that  
21 provide the emergency service(s), and shall be specified in the PD zoning  
22 ordinance.

23  
24 x.y. Prior to the application for PD zoning related to the planned use district, a  
25 major traffic study shall be submitted that meets the specifications  
26 provided by FDOT, Alachua County, and the City of Gainesville, and the  
27 traffic methodology used in the study shall be agreed to in a letter between  
28 the City, and the owner/developer. Any traffic studies undertaken by the  
29 owner/developer prior to the signed methodology letter with the City of  
30 Gainesville may be unilaterally rejected by the City.

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32 y.z. Prior to the application for PD zoning related to the Hatchet Creek planned  
33 use district, a signal warrant analysis for the intersection of NE 53<sup>rd</sup>  
34 Avenue/NE 15<sup>th</sup> Street and for the project driveway at NE 39<sup>th</sup> Avenue  
35 shall be submitted as part of the major traffic study requirements. The  
36 specifications for the signal warrant analyses shall be part of the traffic  
37 methodology letter that will be signed with the City of Gainesville. The  
38 owner/developer shall be responsible for the costs of any new traffic  
39 signals that are warranted as a result of the development's site related  
40 impacts, and the costs shall not be counted toward any required  
41 contribution for transportation concurrency.

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z.aa. The owner/developer shall be responsible for the costs associated with tying a new traffic signal at the proposed entrance to the community on NE 39<sup>th</sup> Avenue into the Traffic Management System to ensure that the new signal communicates with the system, if and when such new traffic signal is installed.

aa.bb. The following shall be executed and delivered to the City prior to approval of a development plan, prior to recording of a final plat, or prior to issuance of a building permit, whichever first occurs: (1) Avigation and clearance easements granting the City and owner/operator of the Gainesville-Alachua County Regional Airport Authority, and their respective successors and assigns, the right to continue to operate the airport despite potential nuisance effects upon residential and any other uses that are established by this PUD and/or by the required PD zoning ordinance; (2) Notice to Prospective Purchasers and Lessees of potential aircraft overflights and noise impacts; and (3) Declaration of Restrictive Covenants to address the property's proximity to the Airport and the imposition of local, state and federal regulations. The easements, notice and declaration shall be in a form acceptable to the city attorney and airport authority and shall be executed and recorded by the property owner. In addition, a copy of the Notice shall be given to prospective purchasers or lessees at the time of contract or lease negotiations.

bb.ee. All residential and non-residential development shall be constructed to achieve an outdoor to indoor noise level reduction (NLR) as specified in Appendix F - Airport Hazard Zoning Regulations, Chapter 30 of the Gainesville Code of Ordinances in effect at the time of application for a building permit.

cc.dd. The owner/developer shall fund any potable water and/or wastewater capacity improvements that are based on the PUD demands so that the adopted levels of service in the Potable Water/Wastewater Element of the City's Comprehensive Plan are maintained. The owner/developer shall sign a binding letter of agreement with the City to ensure that the funding will be available to make the required improvements.

dd.ee. At the time of application for PD zoning, the owner/developer shall provide design standards generally consistent with traditional design concepts (such as pedestrian scale, parking located to the side or rear of buildings, narrow streets, connected streets, terminated vistas, front

porches, recessed garages, alleys, aligned building facades that face the street, and formal landscaping along streets and sidewalks) for all residential and non-residential uses in the PUD and, subject to City review and approval, those standards shall be specified in the PD zoning ordinance.

ee. ff. This PUD does not permit or allow any development that would constitute a development of regional impact or any development that would require a development of regional impact review. Any PD zoning application or any application for proposed development that exceeds the development of regional impact thresholds shall be required to follow the procedures as defined in Chapter 380, F.S. and applicable regulations of the Florida Administrative Code.

ff. gg. The PUD shall not be a gated community. Security features, if any, shall be addressed in the PD zoning application and specified in the PD zoning ordinance.

**Section 2.** The City Manager is authorized and directed to make the necessary changes in maps and other data in the City of Gainesville 2000-2010 Comprehensive Plan, or element, or portion thereof in order to comply with Section 1 of this ordinance.

**Section 3.** A PD (planned development) zoning ordinance consistent with the Hatchet Creek PUD (Policy 4.3.5 of the Future Land Use Element in the City's 2000-2010 Comprehensive Plan) must be adopted by the City Commission on or before June 30, 2015. The obligation to apply for and obtain PD zoning shall be on the owner/developer. If the aforesaid zoning ordinance is not adopted on or before June 30, 2015, then the overlay PUD shall automatically be null and void and of no further force and effect and the overlay land use category shall ministerially be removed from the Future Land Use Map, leaving the original and underlying land use categories in place. Any request to extend the aforesaid date of June 30, 2015 shall be made on the appropriate forms and submitted by the owner/developer to the

1 Planning and Development Services Department on or before February 26, 2015. A timely filed  
2 complete application shall toll the expiration date until final City Commission action on the  
3 extension application.

4 **Section 4.** If any word, phrase, clause, paragraph, section or provision of this ordinance  
5 or the application hereof to any person or circumstance is held invalid or unconstitutional, such  
6 finding shall not affect the other provisions or applications of the ordinance which can be given  
7 effect without the invalid or unconstitutional provisions or application, and to this end the  
8 provisions of this ordinance are declared severable.

9 **Section 5.** All ordinances, or parts of ordinances, in conflict herewith are to the extent of  
10 such conflict hereby repealed.

11 **Section 6.** This ordinance shall become effective immediately upon passage on second  
12 reading; however, the effective date of this plan amendment, if the amendment is not timely  
13 challenged, shall be 31 days after the state land planning agency notifies the City that the plan  
14 amendment package is complete in accordance with Chapter 163.3184, F.S. If timely challenged,  
15 this amendment shall become effective on the date the state land planning agency or the  
16 Administration Commission enters a final order determining this adopted amendment to be in  
17 compliance in accordance with Chapter 163.3184, F.S. No development orders, development  
18 permits, or land uses dependent on this amendment may be issued or commenced before this plan  
19 amendment has become effective.

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**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

ATTEST:

\_\_\_\_\_  
Craig Lowe  
Mayor  
APPROVED AS TO FORM AND LEGALITY:

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

\_\_\_\_\_  
Marion J. Radson  
City Attorney

This ordinance passed on first reading this 21st day of April, 2011.

This ordinance passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2011.