



MEMORANDUM
Office of the City Attorney

LEGISLATIVE ITEM NO. 070210

Box 46

Phone: 334-5011/Fax 334-2229

TO: Mayor and City Commission

DATE: June 16, 2008

FROM: City Attorney

CITY ATTORNEY

FIRST READING

SUBJECT: Ordinance No. 0-07-97, Petition 23LUC-07PB

An Ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan Future Land Use Element and Future Land Use Map; by overlaying the "Planned Use District" category over certain property with the underlying land use categories of "Single-Family (up to 8 units per acre)," "Industrial," and "Recreation," as more specifically described in this ordinance, consisting of approximately 498 acres, generally located in the vicinity of Waldo Road on the East, NE 39th Avenue on the South, NE 15th Street on the West, and NE 53rd Avenue on the North; by creating and adopting Policy 4.3.5 in the Future Land Use Element of the Comprehensive Plan; providing time limitations; providing directions to the City Manager; providing a severability clause; providing a repealing clause; and providing an effective date.

Recommendation: The City Commission (1) hear a presentation from staff regarding the meeting of city staff, GACRAA representatives and the petitioner on May 7, 2008 concerning possible residential development within the Industrial land use area; (2) consider the six unresolved conditions described in ATTACHMENT 1; and (3) adopt the proposed ordinance on first reading as submitted, or as revised.

PLANNING DEPARTMENT STAFF REPORT

As described in the background section below, the Petition as finally amended and approved by the City Commission on April 16, 2008, left several conditions to be further discussed by staff and the petitioner and reported back to the City Commission. Although there have been discussions and communications between staff and the petitioner, as of the date of publication of this memorandum, staff and petitioner have not reached consensus on six conditions. The analysis and recommendation of staff regarding these six conditions is attached to this Memorandum as ATTACHMENT 1.

BACKGROUND

By way of background, this was a request to change the land use on approximately 498 acres in order to allow up to 1,499 residential dwelling units (80% or more age restricted), a maximum of 500 Assisted Living Facility (ALF) beds and up to 200,000 square feet of non-residential uses, including commercial and retail. The subject property surrounds the City of Gainesville's Ironwood Golf Course and is undeveloped. It is traversed by Little Hatchet Creek and its associated floodplains and contains forested wetlands and uplands. Surrounding uses include

developed and undeveloped single-family residential land, GRU's Murphree water treatment plant and wellfield, undeveloped rural/agricultural land, a mobile home park and Gainesville Regional Airport across Waldo Road to the east. The amount of development on the subject property is limited due to development restrictions and constraints that include but are not limited to Airport Hazard Zoning Regulations, wetlands and surface water regulations, wellfield protection, floodplain, and concurrency requirements. Of particular impact on potential residential development is the Airport Noise Zone (applies to approximately 359 acres of the subject property), which prohibits residential development that is not compatible with the Gainesville Regional Airport's official 14CFR Part 150 Study (1986).

On September 20, 2007, September 27, 2007 and October 4, 2007, the Plan Board heard presentations by staff and by the applicant, heard public comments, discussed the petition and the various proposed conditions of approval, and after approximately 13 hours of public hearing, made its recommendation on the proposed PUD. The main issues of concern to the Plan Board were land use compatibility with the surrounding uses particularly with respect to Gainesville Regional Airport, environmental compatibility particularly with respect to wetlands and surface waters, residential use incompatibility with the Airport Noise Zone, and determination of the appropriate level of specificity for conditions in the PUD ordinance. At the end of the third public hearing, the Plan Board voted to approve the staff recommendation to deny the proposed PUD for the portion of the property with Industrial land use and to approve the PUD for areas with Single Family, Residential and Recreational land use provided that no residential uses be allowed in the Airport Noise Zone. The Plan Board approved 200,000 square feet of non-residential uses, 500 ALF units and 1,199 residential units, made several revisions to the staff-recommended conditions, and added a condition pertaining to the prohibition of gated communities.

On October 22, 2007, October 23, 2007, and October 29, 2007, the City Commission heard presentations by staff and by the applicant, heard public comments, discussed the Petition and the Plan Board's recommendation and at the end of the third public hearing, by a vote of 4-3, the City Commission approved the Petition with conditions as recommended by the Plan Board and revised by the City Attorney, with the following further revisions:

- Amend Condition S by adding the underlined language "a maximum of 2 access points shall be allowed along NE 53rd Avenue unless additional access points are approved by Alachua County and the City of Gainesville, in accordance with the Alachua County Access Management Regulations";
- Amend Condition X by adding the underlined language "The developer shall be responsible for the costs of any new traffic signals that are warranted as a result of the development's site related impacts and the costs shall not be counted toward any required proportionate fair share contribution for transportation concurrency";
- Allow Assisted Living Facility but leave the number of beds to be determined upon further analysis (certificate of need process);
- Allow customary accessory uses exclusively for residents and their guests for an active adult community; and

- Amend Condition N by adding the underlined language: "acceptable to the City of Gainesville in accordance with the traffic calming practices outlined by the Institute of Transportation Engineers."

On March 24, 2008, at the request of the Petitioner, the City Commission scheduled a special meeting for April 16, 2008, to again review the approved Petition. At the public hearing on April 16, 2008, the City Commission, by a vote of 4-3, again approved the Petition, further amended as follows:

- The PUD would include the entire 500 acres;
- Approve 1,199 residential units and the 300 ALF beds, reserving the right for the petitioner to come back before the Commission to request an additional 300 residential units;
- No residential development or ALF beds allowed in the Airport Noise Zone;
- No Residential development in the eastern portion of the PUD currently with the land use category of "Industrial" (approximately 199 acres), but directed the Airport Authority, the petitioner and City staff, including the City Attorney, to attempt to identify properties within the Industrial area that could have residential use and not adversely impact airport operations;
- For any non-residential development within the portion of the land currently with the land use category of "Industrial", the only allowable uses shall be those permitted uses identified in the Industrial Zoning Ordinance or zoning category, as well as recreational facilities or lands, parks, open space, conservation, open space buffers, and mitigation areas, except as otherwise prohibited by the Airport Runway Clear Zone, Airport Height Notification Zone, or the Airport Noise Zone;
- Approve Condition E, but ensure that the impacts to the wetlands that take place by the petitioner results in improvement to that area, and that would include the entire 500 acres;
- For Conditions Q and S, that the Commission receive and review staff's standards as they bring those back, but also, that the petitioner work with staff to bring back the trip generation information that was requested by staff; and
- In Condition Z-5 that the language would be as recommended by staff concerning the age makeup of the population (80% age 55 and older and 20% younger families); and

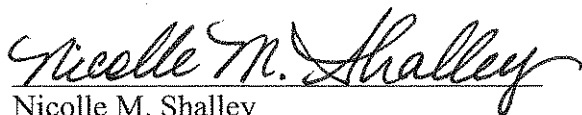
CITY ATTORNEY MEMORANDUM

Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The first hearing is held at the transmittal stage and must be advertised seven days prior to the first public hearing. The second hearing will be held at the adoption stage of the ordinance and must be advertised five days before the adoption hearing.

If adopted on first reading, the proposed amendment to the Comprehensive Plan will be transmitted to the State Department of Community Affairs (DCA) for written comment. Any comments, recommendations or objections of the DCA will be considered by the Commission at the second public hearing.

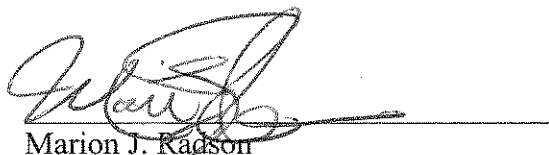
Following second reading, the Plan amendment will not become effective until the DCA issues a final order determining the adopted amendment to be in compliance in accordance with the Local Government Comprehensive Planning and Land Development Regulation Act, or until the Administration Commission (Governor and Cabinet) issues a final order determining the adopted amendment to be in compliance.

Prepared by:



Nicolle M. Shalley
Assistant City Attorney II

Approved and
submitted by:



Marion J. Radson
City Attorney

MJR/NS/sw

ATTACHMENT 1
to
Cover Memorandum
Hatchet Creek PUD Ordinance
Ordinance No. 0-07-97, Petition 23LUC-07PB

With respect to the six conditions on which staff and petitioner have not reached consensus, the following is the staff analysis and recommendation to the City Commission:

Condition a: The City Commission motion approved 1,199 residential units and 300 ALF beds, “reserving the right for the petitioner to come back before the Commission to request an additional 300 units.” Staff recommends that the request for additional units should be made as a land use amendment. Staff believes that allowing additional units above 1,199 at this stage will lead the Department of Community Affairs (DCA) to conclude that the City is permitting 1,499 units as part of this land use change. Staff further believes that will result in DCA issuing objections to this PUD because the petitioner has not submitted adequate data and analyses to support these additional 300 units. If the Commission agrees with the staff’s recommendation, the Commission could revise Condition a. as follows:

- a. The residential density and allowable residential uses within the Planned Use District is a maximum of 1,199 residential units and 300 Assisted Living Facility (ALF) beds. However, if the State Development of Regional Impact residential threshold is increased to 1,500 residential units or above, the owner may request a PUD amendment to allow up to 300 additional residential units based upon a demonstration by the owner/developer that adequate public or private facilities are available to serve the additional units and that the site for which the units are proposed is suitable for residential development.

Condition d: City staff is concerned that if the Airport Noise Zone is reduced in size by future action of the Commission, it does not automatically follow that residential development would be compatible or suitable in the area that was formerly within the Airport Noise Zone. This concern was also raised by the City’s airport noise consultant. These same concerns were discussed in considering the suitability of residential development in the industrial land use area given its close proximity to the Airport. Staff therefore recommends that the specific areas of residential use within the current Airport Noise Zone be left to future consideration by the Commission when the physical extent of any future adopted Airport Noise Zone is known. Based on that concern, City staff recommends that the following new language be incorporated into the beginning of condition d:

- d. The allowable uses within the PUD shall be as restricted as described below and as more specifically described in the PD zoning ordinance.

1 For purposes of this PUD, the Airport Noise Zone is the area depicted on
2 Attachment 3 to the Appendix F – Airport Hazard Zoning Regulations,
3 Chapter 30, Gainesville Code of Ordinances adopted on May 10, 1999 as
4 Ordinance 981149, a copy of Attachment 3 is attached hereto as Exhibit
5 “B.” If the City amends the Airport Noise Zone after the effective date
6 of this PUD and such amendment results in areas of land that were in the
7 Airport Noise Zone, but no longer are within the newly adopted airport
8 noise zone, the City Commission, at the PD zoning stage, may allow
9 residential development in that area upon a City Commission finding that
10 (1) residential development in that area is compatible with the Airport
11 operations, including without limitation, flight operations, and (2) that
12 the site for which the units are proposed is suitable for residential
13 development.

14
15 **Condition d.2(a): With the inclusion of the above language into condition d, staff**
16 **can recommend the following substitute for condition d.2.(a), thereby potentially**
17 **allowing residential development on lands with the underlying land use designation**
18 **of Industrial:**

19
20 d. 2. (a) Residential development, including ALF beds, is allowed; except
21 that on lands with the underlying land use designation of Industrial, no
22 residential development, including ALF beds is allowed.

23
24 **Condition h: The City Commission motion approving the condition re: wetlands**
25 **impacts further stated “but ensure that the impacts to wetlands that take place by**
26 **the petitioner results in improvement to that area, and that would include the entire**
27 **500 acres.” Staff recommends the following substitute for condition h. to**
28 **accomplish the Commission’s intent:**

29
30 h. All direct impacts to jurisdictional wetlands, wetland buffers, and
31 regulated creeks shall be avoided to the extent practicable. All
32 unavoidable, direct wetland and creek impacts shall be mitigated in
33 accord with applicable City of Gainesville and water management
34 district requirements. Any required on-site mitigation will be part of and
35 will not supersede other wetland mitigation requirements of the
36 comprehensive plan, land development code, and the water management
37 district. There shall be no net loss of wetland acreage and function within
38 the planned use district. In addition, if wetland impacts are proposed at
39 the time of application for PD zoning or a subsequent application for
40 development approval, the owner/developer shall submit a plan for
41 improvement of surface water and wetland function within the Planned
42 Use District and, subject to City review and approval, the plan of
43 improvement shall be incorporated into the PD zoning ordinance or
44 subsequent development approval.

1 **Condition t:** City staff continues to support the limitation on number of drive-
2 through facilities in the PUD; however, if the City Commission desires to allow for
3 the possibility of more drive-through facilities, City staff suggests the following
4 alternative condition t that provides standards:
5

- 6 t. A maximum total of three drive-through facilities shall be allowed on the
7 street frontages of NE 53rd Avenue and NE 39th Avenue. No direct
8 access from NE 39th Avenue or NE 53rd Avenue shall be allowed for
9 these three drive-through facilities. All access to the drive-through
10 facilities shall be from the internal roadway system (the internal roadway
11 system shall include public and private roads and internal driveway
12 systems) in the planned use district. Additional drive-through facilities
13 that are entirely internal to the PUD shall be determined in the PD zoning
14 ordinance. The PD zoning ordinance shall specify the design criteria for
15 all drive-through facilities and shall include a phasing schedule to ensure
16 a mix of drive-through facilities, residential uses, and other
17 commercial/office uses in the planned use district. The trip generation
18 associated with drive-through facilities shall limit the total number of
19 drive-through facilities such that the total maximum trip generation
20 shown for the 100,000 square feet of shopping center use as calculated
21 by the traffic study dated 4/3/08 (prepared by GMB Engineers &
22 Planners, Inc.) is not exceeded for the PUD.
23

24 **Condition v:** City staff recommends the following substitute condition v (formerly
25 known as Condition S) to clarify the meaning of internal road system and private
26 road system:
27

- 28 v. A maximum of two access points shall be allowed along NE 53rd Avenue
29 unless additional access points are approved by Alachua County and the
30 City of Gainesville, in accordance with the Alachua County Access
31 Management regulations, and the locations shall be included in the PD
32 zoning application. All access points are subject to Alachua County and
33 City of Gainesville approval at the PD zoning stage and shall be
34 specified in the PD zoning ordinance. To minimize traffic impacts from
35 the Hatchet Creek planned use district on NE 53rd Avenue, the
36 owner/developer shall interconnect the access points on NE 53rd Avenue
37 with the internal public or private road system in the Hatchet Creek
38 development. The private road system interconnections shall be
39 interpreted to include internal driveway systems.
40

AIRPORT
NOISE ZONE

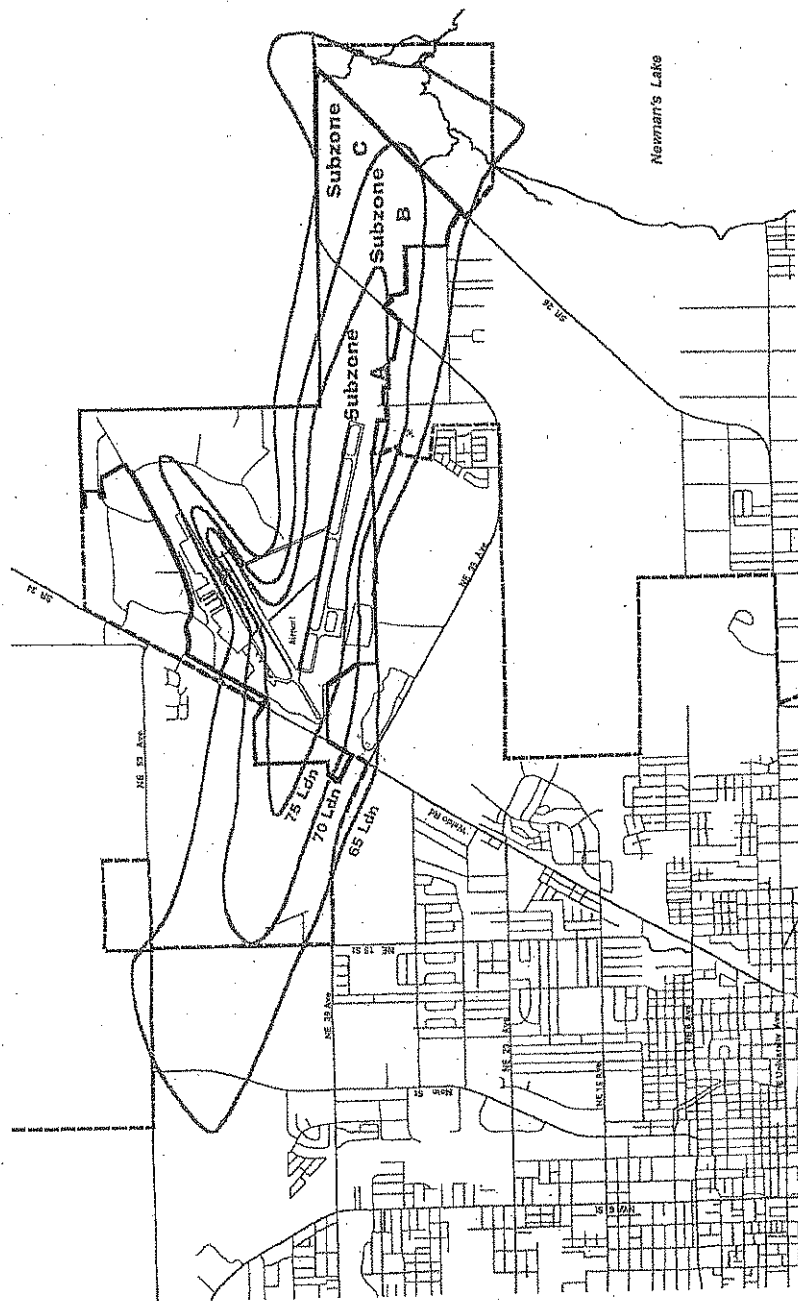
Gainesville Regional Airport

Legend

- Decibel Contours Depicting Airport Noise
 Airport Property Line
 City Limits

City of Gainesville
Gainesville, Florida

Prepared by the
Department of Community Development
MARCH 1999



Source: Gainesville Regional Airport Master Plan, Drawing 4, CH2M Hill, Prepared under the Airport and Airway Improvement Act of 1982.

ORDINANCE NO. _____
0-07-97

An Ordinance amending the City of Gainesville 2000-2010 Comprehensive Plan Future Land Use Element and Future Land Use Map; by overlaying the "Planned Use District" category over certain property with the underlying land use categories of "Single-Family (up to 8 units per acre)," "Industrial," and "Recreation," as more specifically described in this ordinance, consisting of approximately 498 acres, generally located in the vicinity of Waldo Road on the East, NE 39th Avenue on the South, NE 15th Street on the West, and NE 53rd Avenue on the North; by creating and adopting Policy 4.3.5 in the Future Land Use Element of the Comprehensive Plan; providing time limitations; providing directions to the City Manager; providing a severability clause; providing a repealing clause; and providing an effective date.

WHEREAS, publication of notice of a public hearing that the Future Land Use Map be amended by overlaying the land use category of "Planned Use District" over certain property with the underlying land use categories of "Single-Family (up to 8 units per acre)," "Industrial," and "Recreation"; and

WHEREAS, notice was given and publication made as required by law and public hearings were held by the City Plan Board on September 20, 2007, September 27, 2007 and October 4, 2007; and

WHEREAS, notice was given and publication made as required by law and public hearings on the Petition were held by the City Commission on October 22, 2007, October 23, 2007, October 29, 2007, and April 16, 2008; 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 were, in fact, heard.

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

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

Section 1. The Future Land Use Map of the City of Gainesville 2000-2010 Comprehensive Plan is amended by overlaying the "Planned Use District" future land use category on the following described property with the underlying land use categories of "Single-Family (up to 8 units per acre)," "Industrial," and "Recreation," all as more specifically described and shown as follows:

See map, labeled as "Hatchet Creek Planned Use District" dated May 29, 2008, attached hereto as Exhibit "A", and made a part hereof as if set forth in full.

The map attached as Exhibit "A" is adopted and added to the Future Land Use Map Series A of the City of Gainesville Comprehensive Plan.

Section 2. Goal 4, Objective 4.3 of the Future Land Use Element of the City of Gainesville 2000-2010 Comprehensive Plan is amended by creating and adding Policy 4.3.5, which shall govern and control the use and development of the property described in Exhibit "A." Except as amended herein, Goal 4, its Objectives and its Policies, all remain in full force and effect:

Goal 4

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

Objective 4.3

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

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

a. The residential density and allowable residential uses within the PUD is a maximum of 1,199 residential units and 300 Assisted Living Facility (ALF) beds.

b. The non-residential intensity and allowable non-residential uses within the PUD is a maximum of 200,000 square feet of non-residential uses (to include a maximum of 100,000 square feet of retail space, a maximum of 100,000 square feet of office space and accessory uses customarily and clearly incidental to an active adult community). Any such accessory uses shall be for the exclusive use of the residents of the PUD and their guests

1 and shall be specified in the Planned Development ("PD") zoning
2 ordinance. In addition, the PUD may include recreational facilities as
3 accessory uses that are customarily and clearly incidental to an active adult
4 community or parks, open space, conservation, open space buffers and
5 mitigation areas.

6
7 c. The actual amount of residential units and non-residential development
8 area will be specified in the PD zoning ordinance as limited by the city,
9 county and state development restrictions and constraints, including but
10 not limited to, wetlands and surface water regulations, wellfield protection,
11 floodplain requirements, concurrency and airport hazard zoning
12 regulations.

13
14 d. The allowable uses within the PUD shall be as restricted as described
15 below and as more specifically described in the PD zoning ordinance.

16
17 1. Within the Airport Noise Zone, subject to the Airport Hazard
18 Zoning Regulations:

19
20 (a) No residential development, including ALF beds, is
21 allowed.

22
23 (b) Non-residential (retail, office and accessory uses to
24 residential) development is allowed, as well as recreational
25 facilities as accessory uses that are customarily and clearly
26 incidental to an active adult community or parks, open
27 space, conservation, open space buffers and mitigation
28 areas; except that on lands with the underlying land use
29 designation of Industrial, the non-residential development
30 shall be limited to permitted retail and office uses identified
31 in the Limited Industrial (I-1) zoning district.

32
33 2. Outside of the Airport Noise Zone, subject to the Airport Hazard
34 Zoning Regulations, to the extent same are applicable:

35
36 (a) Residential development, including ALF beds, is allowed;
37 except that on lands with the underlying land use
38 designation of Industrial, no residential development,
39 including ALF beds is allowed.

40
41 (b) Non-residential (retail, office and accessory uses to

1 residential) development is allowed, as well as recreational
2 facilities as accessory uses that are customarily and clearly
3 incidental to an active adult community or parks, open
4 space, conservation, open space buffers and mitigation
5 areas.

6
7 e. All non-residential areas in the PUD shall be connected to the residential
8 areas in the PUD by an interior roadway system and/or a
9 pedestrian/bicycle/golf cart system. All pedestrian sidewalk systems in the
10 PUD shall comply with the Florida Accessibility Code for Building
11 Construction requirements.

12
13 f. A PD (planned development) zoning ordinance consistent with the PUD
14 must be adopted by the City Commission within 18 months of the
15 effective date of the land use change. The obligation to apply for and
16 obtain PD zoning shall be on the owner/developer. If the aforesaid zoning
17 ordinance is not adopted within the 18-month period, then the overlay
18 PUD shall automatically be null and void and of no further force and effect
19 and the overlay land use category shall ministerially be removed from the
20 Future Land Use Map, leaving the original and underlying land use
21 categories in place. The timely filing of an extension application by the
22 owner/developer to extend the aforesaid 18-month period shall toll the
23 expiration date until final City Commission action on the extension
24 application.

25
26 g. A current and complete wetlands survey for the entire property shall be
27 submitted to the City of Gainesville and to the St. Johns River Water
28 Management District at the time of application for PD zoning. Formal
29 approval of wetland delineations for the entire property by the water
30 management district is required prior to the public hearing on the PD
31 zoning petition by the City Plan Board.

32
33 h. All direct impacts to jurisdictional wetlands, wetland buffers, and
34 regulated creeks shall be avoided to the extent practicable. All
35 unavoidable, direct wetland and creek impacts shall be mitigated in accord
36 with applicable City of Gainesville and water management district
37 requirements. There shall be no net loss of wetland acreage and function
38 within the PUD. Any required on-site mitigation will be part of and will
39 not supersede other wetland mitigation requirements of the comprehensive
40 plan, land development code, and the water management district.
41

- 1 i. All pedestrian and/or bicycle pathways, trails, and sidewalks shall be
2 located outside of wetland buffer areas and outside of creek buffer areas,
3 except as may be established and shown for good cause by the
4 owner/developer and then provided for in the PD zoning ordinance.
5
- 6 j. Protection of the State-listed animal species Gopher tortoise (Gopherus
7 polyphemus) listed as a Species of Special Concern in Rule 68A-27.005,
8 Florida Administrative Code, located in the remnant sandhills east of the
9 Ironwood Golf Course, and documented in the applicant's Hatchet Creek
10 Planned Use District Report dated March 2007, is required and shall be
11 established in the PD zoning ordinance. Protection of the documented
12 population may be accomplished by establishing a designated protection
13 area in the planned development zoning ordinance that meets all
14 applicable requirements of the City's significant ecological communities
15 district (Sec. 30-309, Land Development Code) and all applicable
16 requirements of the Florida Administrative Code.
17
- 18 k. The owner/developer shall submit an environmental features report (in
19 accordance with the requirements of the Significant Ecological
20 Communities zoning district Section 30-309, Gainesville Code of
21 Ordinances) with the application for planned development zoning. As part
22 of this report, the highest-quality uplands shall be delineated and
23 development within these high-quality areas shall be restricted.
24
- 25 l. The application for planned development district zoning shall include
26 requirements for the use of native vegetation landscaping and for the
27 removal of invasive trees and shrubs.
28
- 29 m. A master stormwater management plan for the entire PUD shall be
30 prepared by the owner/developer. The plan shall include provisions for
31 protecting the water quality of Little Hatchet Creek, particularly with
32 respect to stormwater runoff from any future development within the
33 planned use district. A conceptual master stormwater management plan
34 application shall be submitted at the time of application for PD zoning.
35 The subsequent master stormwater management plan must be approved by
36 the City Manager or designee prior to final development plan approval.
37 The master stormwater management plan for the project shall be modified
38 for undeveloped phases in order to comply with the statewide water
39 quality rule once it is adopted. The water quality leaving the site shall be
40 addressed in the PD zoning ordinance.
41

- 1 n. Buffer and setback requirements for the wetlands and creeks in the PUD
2 shall be specified in the PD zoning ordinance and shall be in accordance
3 with the land development code, including the significant ecological
4 overlay district requirements based upon review of the required
5 environmental features report that shall be submitted with the application
6 for PD zoning.
- 7
- 8 o. Buffer requirements pertaining to adjacent uses (including the municipal
9 golf course) will be provided by the owner/developer in the application for
10 PD zoning and, subject to City review and approval, shall be included in
11 the PD zoning ordinance. These buffers shall be designed to minimize the
12 impact on and adequately buffer the adjacent uses.
- 13
- 14 p. The PUD shall not vest the development for concurrency. The
15 owner/developer is required to apply for and meet concurrency
16 management certification requirements, including all relevant policies in
17 the Concurrency Management Element, at the time of application for PD
18 zoning. Transportation modifications which are required due to traffic
19 safety and/or operating conditions, and which are unrelated to
20 transportation concurrency shall be provided by the owner/developer.
- 21
- 22 q. Internal roadways shall be designed to minimize cut-through traffic, to
23 provide for bicycle and pedestrian access and connectivity, and shall
24 include traffic calming (low design speed) methods (e.g., speed tables,
25 speed humps, "neck-downs", roundabouts) acceptable to the City of
26 Gainesville in accordance with the traffic calming practices outlined by the
27 Institute of Transportation Engineers.
- 28
- 29 r. Sidewalks shall be provided on all internal streets. Sidewalk connections
30 shall be made from the internal sidewalk system to the existing and
31 planned public sidewalks along the development frontage. All sidewalks
32 and sidewalk connections shall be a minimum of 5-feet in width, except as
33 may be established and shown for good cause by the owner/developer and
34 then provided for in the PD zoning ordinance.
- 35
- 36 s. The PUD shall provide for transit access (either on site or on abutting
37 roadways) and shall include construction of an appropriate number of
38 transit shelters, as determined at the PD zoning stage and specified in the
39 PD zoning ordinance.
- 40
- 41 t. A maximum of three drive-through facilities shall be allowed. No direct

1 access from NE 39th Avenue or NE 53rd Avenue shall be allowed. All
2 access to the drive-through facilities shall be from the internal roadway
3 system in the PUD.

4
5 u. A maximum of two access points, unless additional access points are
6 approved by the FDOT and the City of Gainesville, shall be allowed along
7 NE 39th Avenue, subject to the final approval of FDOT. Any proposed
8 reconfiguration of the existing road connection to the Ironwood Golf
9 Course is subject to FDOT and City approval at the PD zoning stage.
10 Boulevard-type driveways with the ingress/egress split by a landscaped
11 median and other entry-type features shall count as a single access point.
12 These access points shall be specified in the PD zoning ordinance.

13
14 v. A maximum of two access points shall be allowed along NE 53rd Avenue
15 unless additional access points are approved by Alachua County and the
16 City of Gainesville, in accordance with the Alachua County Access
17 Management regulations, and the locations shall be included in the PD
18 zoning application. All access points are subject to Alachua County and
19 City of Gainesville approval at the planned development zoning stage and
20 shall be specified in the PD zoning ordinance. To minimize traffic
21 impacts from the Hatchet Creek PUD on NE 53rd Avenue, the access
22 points on NE 53rd Avenue shall be interconnected with the internal road
23 system in the Hatchet Creek development.

24
25 w. A maximum of one access point shall be allowed along NE 15th Street.
26 Any proposed access point along NE 15th Street shall be included in the
27 planned development district zoning application. Any proposed access
28 point is subject to City of Gainesville approval at the planned development
29 zoning stage, and shall be specified in the PD zoning ordinance.

30
31 x. Additional, limited emergency access will be allowed if the need for such
32 is identified and the access is approved by local government agencies that
33 provide the emergency service(s), and shall be specified in the PD zoning
34 ordinance.

35
36 y. Prior to the application for PD zoning related to the planned use district, a
37 major traffic study shall be submitted that meets the specifications
38 provided by FDOT, Alachua County, and the City of Gainesville, and the
39 traffic methodology used in the study shall be agreed to in a letter between
40 the City, and the owner/developer. Any traffic studies undertaken by the
41 owner/developer prior to the signed methodology letter with the City of

1 Gainesville may be unilaterally rejected by the City.

- 2
- 3 z. Prior to the second reading of the PUD land use amendment ordinance, the
- 4 owner/developer shall sign a binding agreement for proportionate fair-
- 5 share mitigation of the transportation concurrency impacts associated with
- 6 the maximum amount of development identified in the future land use
- 7 map amendment. The exact payment will be redefined by the PD
- 8 development program during the PD zoning approval process, and the
- 9 appropriate amendments to the binding agreement will be incorporated.
- 10 The City shall amend the 5-Year Schedule of Capital Improvements to
- 11 show the required transportation modifications and funding provided by
- 12 the owner/developer. If sufficient funds are not available for the required
- 13 transportation modifications, the owner/developer shall be required to
- 14 limit the development program associated with the PUD to that which
- 15 would not degrade the transportation level of service (LOS) below the
- 16 adopted LOS for impacted roads.
- 17
- 18 aa. Prior to the application for PD zoning related to the Hatchet Creek planned
- 19 use district, a signal warrant analysis for the intersection of NE 53rd
- 20 Avenue/NE 15th Street and for the project driveway at NE 39th Avenue
- 21 shall be submitted as part of the major traffic study requirements. The
- 22 specifications for the signal warrant analyses shall be part of the traffic
- 23 methodology letter that will be signed with the City of Gainesville. The
- 24 owner/developer shall be responsible for the costs of any new traffic
- 25 signals that are warranted as a result of the development's site related
- 26 impacts, and the costs shall not be counted toward any required
- 27 proportionate fair-share contribution for transportation concurrency.
- 28
- 29 bb. The owner/developer shall be responsible for the costs associated with
- 30 tying a new traffic signal at the proposed entrance to the community on
- 31 NE 39th Avenue into the Traffic Management System to ensure that the
- 32 new signal communicates with the system, if and when such new traffic
- 33 signal is installed.
- 34
- 35 cc. The following shall be executed and delivered to the City prior to approval
- 36 of a development plan, prior to recording of a final plat, or prior to
- 37 issuance of a building permit, whichever first occurs: (1) Avigation and
- 38 clearance easements granting the owner/operator of the Gainesville-
- 39 Alachua County Regional Airport Authority, its successors and assigns,
- 40 the right to continue to operate the airport in a manner similar to current
- 41 operations despite potential nuisance effects upon residential and any other

1 uses that are established by this PUD and/or by the required PD zoning
2 ordinance; (2) Notice to Prospective Purchasers and Lessees of potential
3 aircraft overflights and noise impacts; and (3) Declaration of Restrictive
4 Covenants to address the property's proximity to the Airport and the
5 imposition of local, state and federal regulations. The easements, notice
6 and declaration shall be in a form acceptable to the city attorney and
7 airport authority and shall be executed in a recordable form by the property
8 owner. In addition, a copy of the Notice shall be given to prospective
9 purchasers or lessees at the time of contract or lease negotiations.

10
11 dd. All residential and non-residential development shall be constructed to
12 achieve an outdoor to indoor noise level reduction (NLR) as specified in
13 Appendix F - Airport Hazard Zoning Regulations, Chapter 30 of the
14 Gainesville Code of Ordinances in effect at the time of application for a
15 building permit.

16
17 ee. The owner/developer shall fund any potable water and/or wastewater
18 capacity improvements that are based on the PUD demands so that the
19 adopted levels of service in the Potable Water/Wastewater Element of the
20 City's Comprehensive Plan are maintained. The owner/developer shall
21 sign a binding letter of agreement with the City to ensure that the funding
22 will be available to make the required improvements.

23
24 ff. At the time of application for PD zoning, the owner/developer shall
25 provide design standards for all residential and non-residential uses in the
26 PUD and, subject to City review and approval, those standards shall be
27 specified in the PD zoning ordinance.

28
29 gg. At least 80% of the residential development shall be housing designated
30 for persons where at least one member of the household is 55 years or
31 older in accordance with the Federal Fair Housing Act (Title 42, Chapter
32 45, Subchapter 1, U.S.C.), the Florida Fair Housing Act (Chapter 760, Part
33 II, F.S.) and all related federal and state regulations. This restriction shall
34 be included on any plat or subdivision of land and in the restrictive
35 covenants. The covenants shall be made expressly enforceable by the City
36 of Gainesville, and shall not be amended without City approval as to this
37 restriction.

38
39 hh. This PUD does not permit or allow any development that would constitute
40 a development of regional impact or any development that would require a
41 development of regional impact review. Any PD zoning application or

1 any application for proposed development that exceeds the development of
2 regional impact thresholds shall be required to follow the procedures as
3 defined in Chapter 380, F.S. and applicable regulations of the Florida
4 Administrative Code.

5
6 ii. The PUD shall not be a gated community. Security features, if any, shall
7 be addressed in the PD zoning application and specified in the PD zoning
8 ordinance.
9

10 **Section 3.** The underlying land use categories of “Single-Family (up to 8 units per acre),”
11 “Industrial,” and “Recreation” on the property described in Section 1 of this ordinance are neither
12 abandoned nor repealed; such categories are inapplicable as long as the property is rezoned to
13 Planned Development “PD,” as provided in section 2 above. In the event, however, the property
14 described in Section 1 of this Ordinance is not rezoned by ordinance to Planned Development
15 “PD,” as provided in Section 2 of this Ordinance, then the overlay Planned Use District Category
16 imposed by this Ordinance shall automatically be null and void and of no further force and effect
17 and the overlay land use category shall be ministerially be removed from the Future Land Use Map,
18 leaving the original and underlying land use categories in place. The timely filing of an extension
19 application by the owner/developer to extend the aforesaid 18-month period shall toll the expiration
20 date until final City Commission action on the extension application.

21 **Section 4.** The City Manager is authorized and directed to make the necessary changes in
22 maps and other data in the City of Gainesville 2000-2010 Comprehensive Plan, or element, or
23 portion thereof in order to comply with this ordinance.

24 **Section 5.** If any word, phrase, clause, paragraph, section or provision of this ordinance
25 or the application hereof to any person or circumstance is held invalid or unconstitutional, such

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5-29-08

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

Section 7. This ordinance shall become effective immediately upon passage on second reading; however, the effective date of this plan amendment shall be the date a final order is issued by the Department of Community Affairs finding the amendment to be in compliance in accordance with Chapter 163.3184, F.S.; or the date a final order is issued by the Administration Commission finding the amendment to be in compliance in accordance with Chapter 163.3184, F.S.

PASSED AND ADOPTED this ____ day of _____, 2008.

Pegeen Hanrahan,
Mayor

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

Kurt Lannon,
Clerk of the Commission

Marion J. Radson, City Attorney

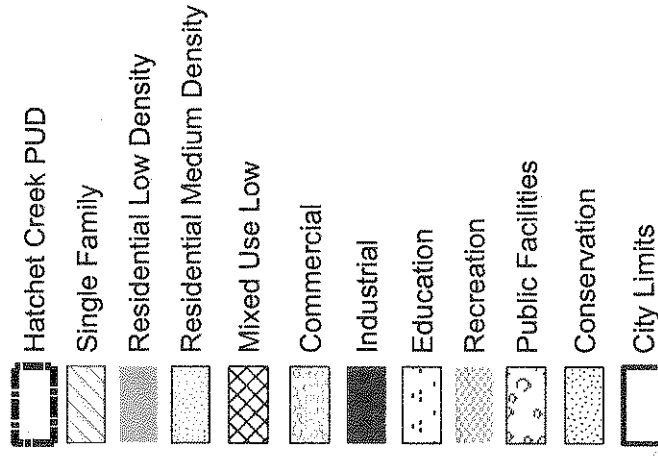
This ordinance passed on first reading this ____ day of _____, 2008.

This ordinance passed on second reading this ____ day of _____, 2008.

Exhibit "A"

City of Gainesville

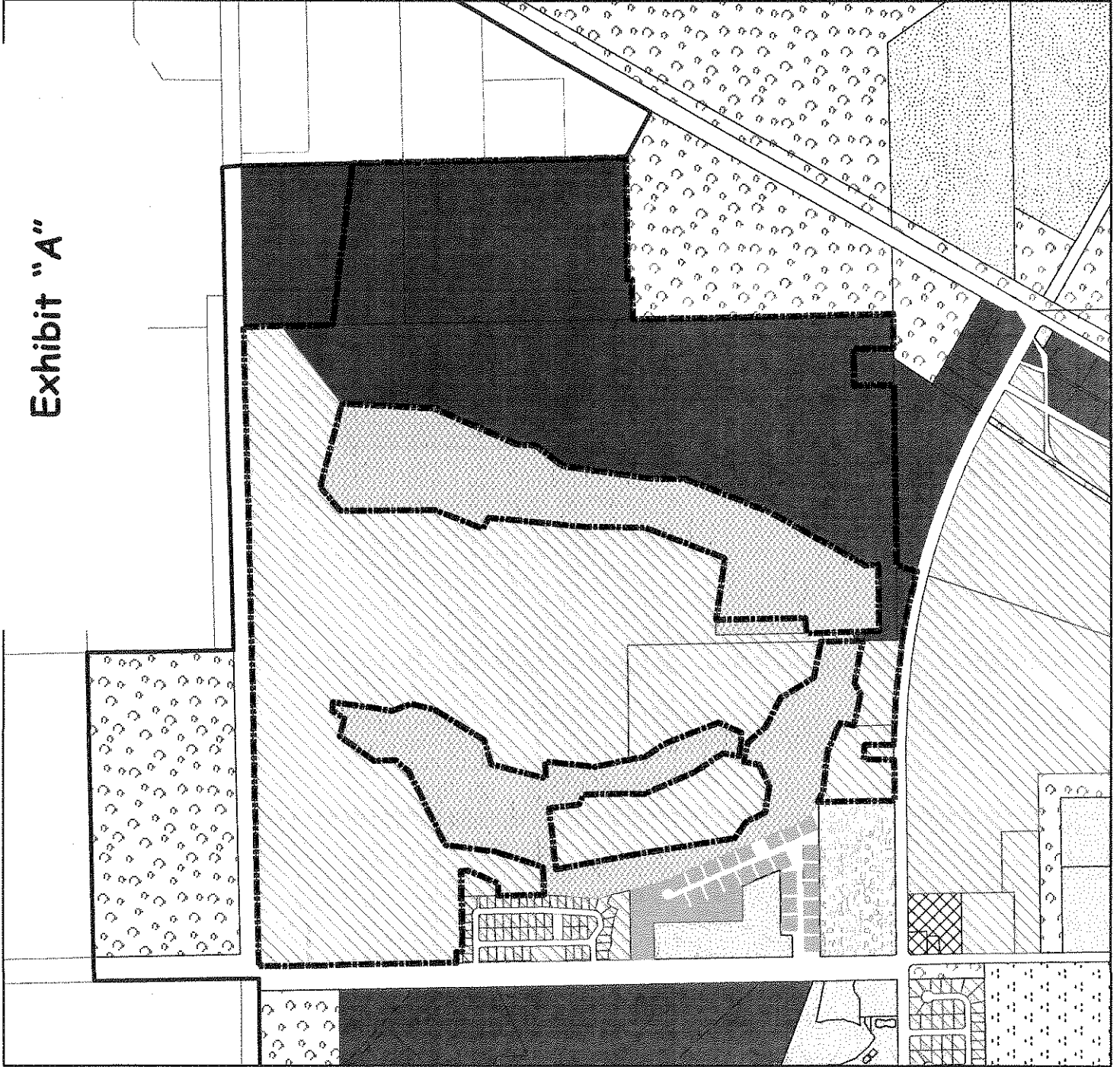
Hatchet Creek Planned Use District
(Petition 23LUC-07PB)



Prepared by the Dept. of Planning
and Development Services
GIS Section May 29, 2008

File: 23LUC-07PB_Law_Dept_052908

This map is for informational purposes only. Do not rely on this map for accuracy of dimensions, size or location. The City of Gainesville does not assume responsibility to update this information or for any error or omission on this map. For specific information, you are directed to contact the City of Gainesville, Florida.



Draft Ordinance conditions as recommended by Staff	Proposed modifications submitted by Petitioner to Clerk on June 4, 2008	Staff analysis and recommendation on unresolved conditions
a. The residential density and allowable residential uses within the PUD is a maximum of 1,199 residential units and 300 Assisted Living Facility (ALF) beds. (Note: formerly Petition Condition A-1) Staff Comment: Staff continues to believe that 1,199 residential units and 300 ALF beds is an appropriate maximum residential density, considering the existing development restrictions and constraints, including but not limited to wetlands and surface water regulations, wellfield protection, floodplain requirements, concurrency and airport hazard zoning regulations, current Development of Regional Impact thresholds, and the BLID letter issued to the Petitioner by DCA that limited the number of residential units to 1,199 to avoid DRI requirements.	a. The residential and Assisted Living Facility ("ALF") density and allowable residential and ALF uses within the PUD is a maximum of 1,500 1,199-residential units and 300 ALF Assisted-Living Facility (ALF) beds.	The City Commission motion approved 1,199 residential units and 300 ALF beds, "reserving the right for the petitioner to come back before the Commission to request an additional 300 units." Staff recommends that additional units be requested as a future land use amendment. Staff believes that allowing additional units above 1,199 at this time will cause DCA to conclude that the City is permitting 1,499 units. Staff further believes that DCA will object to this PUD because there is not adequate data and analyses at this time to support an additional 300 units. If the Commission believes that additional units should be made as a future land use amendment, then the Commission could revise Condition a. as follows: a. The residential density and allowable residential uses within the Planned Use District is a maximum of 1,199 residential units and 300 Assisted Living Facility (ALF) beds. However, if the State Development of Regional Impact residential threshold is increased to 1,500 residential units or above, the owner may request a PUD amendment to allow up to 300 additional residential units based upon a demonstration by the owner/developer that adequate public or private facilities are available to serve the additional units and that the site for which the units are proposed is suitable for residential development.
b. The non-residential intensity and allowable non-residential uses within the PUD is a maximum of 200,000 square feet of non-residential uses (to include a maximum of 100,000 square feet of retail space, a maximum of 100,000 square feet of office space and accessory uses customarily and clearly incidental to an active adult community). Any such accessory uses shall be for the exclusive use of the residents of	Petitioner proposes clarifications as follows: b. The non-residential and non-ALF intensity and allowable non-residential and non-ALF uses within the PUD is a maximum of 200,000 square feet of non-residential uses (to include a maximum of 100,000 square	Staff supports Petitioners clarification "and non-ALF", but cannot support "such as boat, RV, or personal storage," as the accessory uses will be determined at the PD zoning stage, guided by the standards in this condition (i.e., customarily and clearly incidental, and for exclusive use by the residents and guests of the PUD).

Draft Ordinance conditions as recommended by Staff	Proposed modifications submitted by Petitioner to Clerk on June 4, 2008	Staff analysis and recommendation on unresolved conditions
the PUD and their guests and shall be specified in the Planned Development ("PD") zoning ordinance. In addition, the PUD may include recreational facilities as accessory uses that are customarily and clearly incidental to an active adult community or parks, open space, conservation, open space buffers and mitigation areas. (Note: formerly Petition Conditions A-1 and Z-8)	feet of retail space, a maximum of 100,000 square feet of office space and accessory uses customarily and clearly incidental to an active adult community, such as boat, RV, or personal storage). Any such accessory uses shall be for the exclusive use of the residents of the PUD and their guests and shall be specified in the Planned Development ("PD") zoning ordinance. In addition, the PUD may include recreational facilities as accessory uses that are customarily and clearly incidental to an active adult community or parks, open space, conservation, open space buffers and mitigation areas.	
c. The actual amount of residential units and non-residential development area will be specified in the PD zoning ordinance as limited by the city, county and state development restrictions and constraints, including but not limited to, wetlands and surface water regulations, wellfield protection, floodplain requirements, concurrency and airport hazard zoning regulations. (Note: formerly Petition Condition A-1)	<i>Petitioner proposes clarifications as follows:</i> c. The actual amount of residential units, <u>ALF beds</u>, and non-residential development area will be specified in the PD zoning ordinance as limited by the city, county and state development restrictions and constraints, including but not limited to, wetlands and surface water regulations, wellfield protection, floodplain requirements, concurrency and airport hazard zoning regulations.	Staff supports Petitioners clarification
d. The allowable uses within the PUD shall be as restricted as described below and as more specifically described in the PD zoning ordinance. 1. Within the Airport Noise Zone, subject to the Airport Hazard Zoning Regulations: (a) No 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 an active adult community or parks, open space,	d. The allowable uses within the PUD shall be as restricted as described below and as more specifically described in the PD zoning ordinance. 1. Within the <u>65 dB DNL noise zone: Airport Noise Zone</u>, subject to the <u>Airport Hazard Zone Regulations</u>: (a) No residential development or, including ALF beds, is are allowed. Accessory uses (e.g., amenity center, recreational facilities, boat, RV and personal storage) to residential development, or parks, open space, conservation, open space buffers, mitigation areas, flood plain compensation	Staff recommends against the Petitioner's modification. If the Commission accepts the Petitioners language the Commission would restrict its ability to adopt new noise contours or compatibility of uses within the noise Noise Zone that could be applied to this PUD. If the Airport Noise Zone is reduced in geographic size, it does not automatically follow that residential development would be compatible or suitable in the area that was formerly within the Airport Noise Zone. This concern was raised by the City's airport noise consultant and discussed in the meeting to consider the suitability of residential development in the Industrial land use area given its close proximity to the Airport. Staff recommends that the specific areas of residential use within the current Airport

Draft Ordinance conditions as recommended by Staff	Proposed modifications submitted by Petitioner to Clerk on June 4, 2008	Staff analysis and recommendation on unresolved conditions
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 permitted retail and office uses identified in the Limited Industrial (I-1) zoning district. 2. Outside of the Airport Noise Zone, subject to the Airport Hazard Zoning Regulations, to the extent same are applicable: (a) Residential development, including ALF beds, is allowed; except that on lands with the underlying land use designation of Industrial, no 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 an active adult community or parks, open space, conservation, open space buffers and mitigation areas. (Note: formerly Petition Conditions A-2, A-3, A-4, and Z-8)	areas, and water detention areas are allowed. <u>Bb. Non-residential retail, office and accessory uses to residential development is allowed in accordance with the permitted uses identified in the PD zoning ordinance. In addition, such permitted uses shall be compatible or made compatible (in accordance with Table 1 of Appendix A to 14 C.F.R. Part 150) with the noise zone within which the use is located. These compatibility measures include building to the 25 dB noise level reduction ("NLR") standard and granting of an aviation easement acceptable in form to the City and the Gainesville Alachua County Regional Airport Authority, as well as recreational facilities as accessory uses that are customarily and clearly incidental to an active adult community or parks, open space, 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 permitted retail and office uses identified in the Limited Industrial (I-1) zoning district.</u> 2. Below the 65 dB DNL noise zone, Outside of the Airport Noise Zone, subject to the Airport Hazard Zoning Regulations, to the extent same are applicable; <u>(a) Residential development and, including ALF beds are, is allowed. Accessory uses (e.g. amenity center, recreational facilities, boat, RV and personal storage) to residential development, or parks, open space, conservation, open space buffers, mitigation areas, flood plain compensation areas, and</u>	Noise Zone be left to future consideration by the Commission when the physical extent of any future adopted Airport Noise Zone is known. Based on that concern, City staff recommends that the following new language be incorporated into the beginning of condition d: d. The allowable uses within the PUD shall be as restricted as described below and as more specifically described in the PD zoning ordinance. For purposes of this PUD, the Airport Noise Zone is the area depicted on Attachment 3 to the Appendix F – Airport Hazard Zoning Regulations, Chapter 30, Gainesville Code of Ordinances adopted on May 10, 1999 as Ordinance 981149, a copy of Attachment 3 is attached hereto as Exhibit "B." If the City amends the Airport Noise Zone after the effective date of this PUD and such amendment results in areas of land that were in the Airport Noise Zone, but no longer are within the newly adopted airport noise zone, the City Commission, at the PD zoning stage, may allow residential development in that area upon a City Commission finding that (1) residential development in that area is compatible with the Airport operations, including without limitation, flight operations, and (2) that the site for which the units are proposed is suitable for residential development. With the inclusion of the above language into condition d, staff can recommend the following substitute for condition d.2 (a), thereby potentially allowing residential development on lands with the underlying land use designation of Industrial: d. 2. (a) Residential development, including ALF beds, is allowed; except that on lands with the

Draft Ordinance conditions as recommended by Staff	Proposed modifications submitted by Petitioner to Clerk on June 4, 2008	Staff analysis and recommendation on unresolved conditions
	water detention areas are allowed. Except that on lands with the underlying land use designation of industrial, no residential development, including ALF beds is allowed. <u>2.</u> <u>(b) b.</u> Non-residential (retail, office and accessory uses to residential) development is allowed in accordance with permitted uses identified in the PD zoning ordinance, as well as recreational facilities as accessory uses that are customarily and clearly incidental to an active-adult community or parks, open space, conservation, open space buffers and mitigation areas. <u>3.</u> To the extent economically and logistically reasonably possible, wetland mitigation areas, water detention areas, flood plain compensation areas, some office uses, and amenity center and recreational facility uses shall be located within the 60 dB and 65 dB DNL noise zones.	<u>underlying land use designation of industrial, no residential development, including ALF beds is allowed.</u> Staff cannot support removal of the references to "subject to the Airport Hazard Zoning Regulations," as these regulations address height limitations, runway and obstruction protections, and bird strike hazards, among other issues, that may affect the PUD development. Draft ordinance condition b. specifies the non-residential permitted uses in the PUD are limited to office, retail, accessory uses to residential, parks, open space, conservation, open space buffers and mitigation areas. It would be inconsistent with condition b. and with the Comp Plan, to wait until the PD zoning stage to address the primary permitted uses. Petitioner's offer of building noise level reduction and granting aviation easements is already addressed in the draft ordinance conditions cc. and dd. Draft Ordinance condition b. states that the accessory uses will be determined at the PD zoning stage, guided by the standards in condition b. (i.e., customarily and clearly incidental, and for exclusive use by the residents and guests of the PUD). This draft Ordinance condition already allows retail, office and accessory uses to residential; as well as, recreational facilities as accessory uses, open space, conservation, open space buffers and mitigation areas, over the entire PUD, subject to the Airport Hazard Zoning Regulations, so modification 3 would appear unnecessary.

Draft Ordinance conditions as recommended by Staff	Proposed modifications submitted by Petitioner to Clerk on June 4, 2008	Staff analysis and recommendation on unresolved conditions
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. (Note: formerly Petition Condition B)	Petitioner proposes clarifications as follows: 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 or bicycle or golf cart system. All pedestrian sidewalk systems in the PUD shall comply with the Florida Accessibility Code for Building Construction requirements	Staff cannot support the modifications, as the intent of the draft Ordinance condition is to connect the non-residential areas to the residential areas by an interior roadway system and/or a system that provides access for pedestrians, bicycles and golf carts, not merely access by one of those modes.
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. (Note: formerly Petition Condition C)	Petitioner accepts the Ordinance condition.	N/A
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. (Note: formerly Petition Condition D)	Petitioner accepts the Ordinance condition.	N/A
h. All direct impacts to jurisdictional wetlands, wetland buffers, and regulated creeks shall be avoided to the extent practicable. All unavoidable, direct wetland and creek impacts shall be mitigated in accord with applicable City of Gainesville and water management district requirements. There shall be no net loss of wetland acreage and function within the PUD. Any required on-site mitigation will be part of	h. If wetland impacts are proposed by the owner/developer at the time of application for PD zoning, the owner/developer shall submit a mitigation plan for improvement of the surface water and wetland function appropriate to mitigate the proposed impacts within the Planned Use District and, subject to City review and	The City Commission motion re: wetlands impacts stated "but ensure that the impacts to wetlands that take place by the petitioner results in improvement to that area, and that would include the entire 500 acres." Staff recommends the following substitute for condition h. to accomplish the Commission's intent:

Draft Ordinance conditions as recommended by Staff	Proposed modifications submitted by Petitioner to Clerk on June 4, 2008	Staff analysis and recommendation on unresolved conditions
and will not supersede other wetland mitigation requirements of the comprehensive plan, land development code, and the water management district. (Note: formerly <i>Petition Condition E</i>)	<u>approval, such plan shall be incorporated into the PD zoning ordinance.</u>	h. All direct impacts to jurisdictional wetlands, wetland buffers, and regulated creeks shall be avoided to the extent practicable. All unavoidable, direct wetland and creek impacts shall be mitigated in accord with applicable City of Gainesville and water management district requirements. Any required on-site mitigation will be part of and will not supersede other wetland mitigation requirements of the comprehensive plan, land development code, and the water management district. There shall be no net loss of wetland acreage and function within the planned use district. <u>In addition, if wetland impacts are proposed at the time of application for PD zoning or a subsequent application for development approval, the owner/developer shall submit a plan for improvement of surface water and wetland function within the Planned Use District and, subject to City review and approval, the plan of improvement shall be incorporated into the PD zoning ordinance or subsequent development approval.</u> City staff does not believe the Petitioner's language fulfills the Commissions intent. The Petitioner's proposed language does not require improvement; it requires mitigation, which is already a Code requirement. Mitigation merely offsets loss of wetland function; it does not result in overall improvement to the system. In addition, mitigation plans are not incorporated into PD ordinances. Mitigation plans are reviewed and approved at the development review stage.
i. All pedestrian and/or bicycle pathways, trails, and sidewalks shall be located outside of wetland buffer areas and outside of creek buffer areas, except as may be established and shown for good cause by the	<i>Petitioner accepts the Ordinance condition.</i>	N/A

Draft Ordinance conditions as recommended by Staff	Proposed modifications submitted by Petitioner to Clerk on June 4, 2008	Staff analysis and recommendation on unresolved conditions
owner/developer and then provided for in the PD zoning ordinance. (Note: formerly Petition Condition F)		
j. Protection of the State-listed animal species Gopher tortoise (Gopherus polyphemus) listed as a Species of Special Concern in Rule 68A-27.005, Florida Administrative Code, located in the remnant sandhills east of the Ironwood Golf Course, and documented in the applicant's Hatchet Creek Planned Use District Report dated March 2007, is required and shall be established in the PD zoning ordinance. Protection of the documented population may be accomplished by establishing a designated protection area in the planned development zoning ordinance that meets all applicable requirements of the City's significant ecological communities district (Sec. 30-309, Land Development Code) and all applicable requirements of the Florida Administrative Code. (Note: formerly Petition Condition G)	Petitioner accepts the Ordinance condition.	N/A
k. The owner/developer shall submit an environmental features report (in accordance with the requirements of the Significant Ecological Communities zoning district Section 30-309, Gainesville Code of Ordinances) with the application for planned development zoning. As part of this report, the highest-quality uplands shall be delineated and development within these high-quality areas shall be restricted. (Note: formerly Petition Condition H)	Petitioner accepts the Ordinance condition.	N/A
l. The application for planned development district zoning shall include requirements for the use of native vegetation landscaping and for the removal of invasive trees and shrubs. (Note: formerly Petition Condition I)	Petitioner accepts the Ordinance condition.	N/A
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	Petitioner accepts the Ordinance condition.	N/A

Draft Ordinance conditions as recommended by Staff	Proposed modifications submitted by Petitioner to Clerk on June 4, 2008	Staff analysis and recommendation on unresolved conditions
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. (Note: formerly Petition Condition J)		
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 land development code, including the significant ecological overlay district requirements based upon review of the required environmental features report that shall be submitted with the application for PD zoning. (Note: formerly Petition Condition K)	Petitioner accepts the Ordinance condition.	N/A
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. (Note: formerly Petition Condition L)	Petitioner accepts the Ordinance condition.	N/A
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. (Note: formerly Petition Condition M)	Petitioner accepts the Ordinance condition.	N/A
q. Internal roadways shall be designed to minimize cut-through traffic, 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	Petitioner accepts the Ordinance condition.	N/A

Draft Ordinance conditions as recommended by Staff	Proposed modifications submitted by Petitioner to Clerk on June 4, 2008	Staff analysis and recommendation on unresolved conditions
the Institute of Transportation Engineers. (Note: formerly Petition Condition N)		
r. Sidewalks shall be provided on all internal streets. Sidewalk connections shall be made from the internal sidewalk system to the existing and planned public sidewalks along the development frontage. All sidewalks and sidewalk connections shall be a minimum of 5-feet in width, except as may be established and shown for good cause by the owner/developer and then provided for in the PD zoning ordinance. (Note: formerly Petition Condition O)	Petitioner accepts the Ordinance condition.	N/A
s. The PUD shall provide for transit access (either on site or on abutting roadways) and shall include construction of an appropriate number of transit shelters, as determined at the PD zoning stage and specified in the PD zoning ordinance. (Note: formerly Petition Condition P)	Petitioner accepts the Ordinance condition.	N/A
t. A maximum of three drive-through facilities shall be allowed. No direct access from NE 39th Avenue or NE 53rd Avenue shall be allowed. All access to the drive-through facilities shall be from the internal roadway system in the PUD. (Note: formerly Petition Condition Q) Staff Comment: Policy 4.1.1. of the Future Land Use Element of the Comp Plan requires that the PUD address access and trip generation; therefore, City staff continues to support the limitation on number of drive-through facilities in the draft Ordinance condition.	t. All proposed land uses in association with drive-through facilities at the time of the PD zoning ordinance shall be consistent with the City's Land Development Code. Such land uses will be subject to review by City staff to deem consistency with the Land Development Code. No drive-through facilities shall be allowed to have independent direct access to either NE 39th Avenue or NE 53rd Avenue. A maximum of three drive-through facilities shall be allowed. No direct access from NE 39th Avenue or NE 53rd Avenue shall be allowed. All access to the drive-through facilities shall be from the internal roadway system in the PUD.	Staff does not support the proposed modifications. If the City Commission desires to allow more than three drive-through facilities in the PUD, City staff suggests the following alternative condition that provides for phasing and standards to guide the future determination of how many drive-through facilities are allowed: t. A maximum total of three drive-through facilities shall be allowed on the street frontages of NE 53rd Avenue and NE 39th Avenue. No direct access from NE 39th Avenue or NE 53rd Avenue shall be allowed for these three drive-through facilities. All access to the drive-through facilities shall be from the internal roadway system (the internal roadway system shall include public and private roads and internal driveway systems) in the planned use district. Additional drive-through facilities that are entirely internal to the PUD shall be determined in the PD zoning ordinance. The PD zoning ordinance shall specify the design criteria for all drive-through facilities and shall include a phasing schedule to ensure

Draft Ordinance conditions as recommended by Staff	Proposed modifications submitted by Petitioner to Clerk on June 4, 2008	Staff analysis and recommendation on unresolved conditions
u. A maximum of two access points, unless additional access points are approved by the FDOT and the City of Gainesville, shall be allowed along NE 39th Avenue, subject to the final approval of FDOT. Any proposed reconfiguration of the existing road connection to the Ironwood Golf Course is subject to FDOT and City approval at the PD zoning stage. Boulevard-type driveways with the ingress/egress split by a landscaped median and other entry-type features shall count as a single access point. These access points shall be specified in the PD zoning ordinance. (Note: formerly Petition Condition R)	<i>Petitioner accepts the Ordinance condition.</i>	a mix of drive-through facilities, residential uses, and other commercial/office uses in the planned use district. The trip generation associated with drive-through facilities shall limit the total number of drive-through facilities such that the total maximum trip generation shown for the 100,000 square feet of shopping center use as calculated by the traffic study dated 4/3/08 (prepared by GMB Engineers & Planners, Inc.) is not exceeded for the PUD. N/A
v. A maximum of two access points shall be allowed along NE 53rd Avenue unless additional access points are approved by Alachua County and the City of Gainesville, in accordance with the Alachua County Access Management regulations, and the locations shall be included in the PD zoning application. All access points are subject to Alachua County and City of Gainesville approval at the planned development zoning stage and shall be specified in the PD zoning ordinance. To minimize traffic impacts from the Hatchet Creek PUD on NE 53rd Avenue, the access points on NE 53rd Avenue shall be interconnected with the internal road system in the Hatchet Creek development. (Note: formerly Petition Condition S) Staff comment: The management of access to external roadways and the provision of internal connectivity are fundamental transportation	v. Proposed driveway connections to NE 53rd Avenue (S.R. 232) shall be evaluated at the time of the PD zoning ordinance. The proposed driveways shall be consistent with FDOT connection spacing criteria, as well as the City's Land Development Code. The driveway connections shall be reviewed for consistency with the appropriate codes at the time of the applicant's preliminary site plan submittal. A maximum of two access points shall be allowed along NE 53rd Avenue unless additional access points are approved by the Alachua County and the City of Gainesville, in accordance with the Alachua County Access Management regulations, and the locations shall be included in the PD zoning application. All access points are subject to Alachua County and City of	Policy 4.1.1. of the Future Land Use Element of the Comp Plan requires that the PUD address access. Staff cannot support leaving the number of access points to be determined at the PD zoning stage. Petitioner previously requested staff to clarify the meaning of internal road system and private road system and to do so City staff recommends the following substitute condition v: v. A maximum of two access points shall be allowed along NE 53rd Avenue unless additional access points are approved by Alachua County and the City of Gainesville, in accordance with the Alachua County Access Management regulations, and the locations shall be included in the PD zoning

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factors that are appropriately and fairly addressed at the PUD stage.	Gainesville approval at the planned development zoning stage and shall be specified in the PD zoning ordinance. To minimize traffic impacts from the Hatchet Creek PUD on NE 53rd Avenue, the access points on NE 53rd Avenue shall be interconnected with the internal road system in the Hatchet Creek development.	application. All access points are subject to Alachua County and City of Gainesville approval at the PD zoning stage and shall be specified in the PD zoning ordinance. To minimize traffic impacts from the Hatchet Creek planned use district on NE 53rd Avenue, the access points on NE 53rd Avenue shall be interconnected with the internal public or private road system in the Hatchet Creek development. The private road system interconnections shall be interpreted to include internal driveway systems.
w. A maximum of one access point shall be allowed along NE 15th Street. Any proposed access point along NE 15th Street shall be included in the planned development district zoning application. Any proposed access point is subject to City of Gainesville approval at the planned development zoning stage, and shall be specified in the PD zoning ordinance. (Note: formerly Petition Condition T)	Petitioner accepts the Ordinance condition.	N/A
x. Additional, limited emergency access will be allowed if the need for such is identified and the access is approved by local government agencies that provide the emergency service(s), and shall be specified in the PD zoning ordinance. (Note: formerly Petition Condition U)	Petitioner accepts the Ordinance condition.	N/A
y. Prior to the application for PD zoning related to the planned use district, a major traffic study shall be submitted that meets the specifications provided by FDOT, Alachua County, and the City of Gainesville, and the traffic methodology used in the study shall be agreed to in a letter between the City and the owner/developer. Any traffic studies undertaken by the owner/developer prior to the signed methodology letter with the City of Gainesville may be unilaterally rejected by the City. (Note: formerly Petition Condition V)	Petitioner accepts the Ordinance condition.	N/A

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z. Prior to the second reading of the PUD land use amendment ordinance, the owner/developer shall sign a binding agreement for proportionate fair-share mitigation of the transportation concurrency impacts associated with the maximum amount of development identified in the future land use map amendment. The exact payment will be redefined by the PD development program during the PD zoning approval process, and the appropriate amendments to the binding agreement will be incorporated. The City shall amend the 5-Year Schedule of Capital Improvements to show the required transportation modifications and funding provided by the owner/developer. If sufficient funds are not available for the required transportation modifications, the owner/developer shall be required to limit the development program associated with the PUD to that which would not degrade the transportation level of service (LOS) below the adopted LOS for impacted roads. (Note: formerly <i>Petition Condition W</i>)	Petitioner accepts the Ordinance condition.	N/A
aa. Prior to the application for PD zoning related to the Hatchet Creek planned use district, a signal warrant analysis for the intersection of NE 53rd Avenue/NE 15th Street and for the project driveway at NE 39th Avenue shall be submitted as part of the major traffic study requirements. The specifications for the signal warrant analyses shall be part of the traffic methodology letter that will be signed with the City of Gainesville. The owner/developer shall be responsible for the costs of any new traffic signals that are warranted as a result of the development's site related impacts, and the costs shall not be counted toward any required proportionate fair-share contribution for transportation concurrency. (Note: formerly <i>Petition Condition X</i>)	Petitioner accepts the Ordinance condition.	N/A
bb. 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 39th 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. (Note: formerly <i>Petition Condition Y</i>)	Petitioner accepts the Ordinance condition.	N/A

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cc. 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 owner/operator of the Gainesville-Alachua County Regional Airport Authority, its successors and assigns, the right to continue to operate the airport in a manner similar to current operations 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 in a recordable form 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. (Note: formerly Petition Condition Z-1)	Petitioner accepts the Ordinance condition.	N/A
dd. 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. (Note: formerly Petition Condition Z-2)	dd. All non-residential development in the PUD and residential and ALF development in areas with a DNL noise zone less than 60 dB shall be constructed to achieve an outdoor to indoor NLR of 25 dB. All residential and ALF development in areas with a DNL noise zone of 60 dB or greater shall be constructed to achieve an outdoor to indoor NLR of 30 dB. 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 building permit.	The Airport Hazard Zoning Regulations currently require NLR of at least 25dB at the time of construction, so the Petitioner's language both meets and exceeds the current requirement. It should be noted that if the Commission accepts the Petitioners language and then in the future the Commission changes the noise contours or the NLR requirement, those changes would not apply to this PUD.
ee. 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	Petitioner accepts the Ordinance condition.	N/A

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improvements. (Note: formerly Petition Condition Z-3)		
ff. At the time of application for PD zoning, the owner/developer shall provide design standards 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. (Note: formerly Petition Condition Z-4)	Petitioner accepts the Ordinance condition.	N/A
gg. At least 80% of the residential development shall be housing designated for persons where at least one member of the household is 55 years or older in accordance with the Federal Fair Housing Act (Title 42, Chapter 45, Subchapter 1, U.S.C.), the Florida Fair Housing Act (Chapter 760, Part II, F.S.) and all related federal and state regulations. This restriction shall be included on any plat or subdivision of land and in the restrictive covenants. The covenants shall be made expressly enforceable by the City of Gainesville, and shall not be amended without City approval as to this restriction. (Note: formerly Petition Condition Z-5)	Petitioner accepts the Ordinance condition.	N/A
hh. 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. (Note: formerly Petition Condition Z-6)	Petitioner accepts the Ordinance condition.	N/A
ii. 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. (Note: formerly Petition Condition Z-7)	Petitioner accepts the Ordinance condition.	N/A
(Note: former Petition Condition Z-8 was incorporated into Ordinance Condition d. above)	Petitioner accepts the Ordinance condition.	N/A