

Project Narrative for UNG Cottages – Tumbling Creek Road

LOCATION – 3055 Tumbling Creek Road, Gainesville, GA 30504

ACREAGE – 5.94 acres +/-

APPLICANT – Rochester/DCCM

Summary

The accompanying application seeks a change of zoning conditions and site plan revision for a 5.94 +/- acre site located at 3055 Tumbling Creek Road. The intent is to develop up to 38 units of quality rental housing with a focus toward the student population of the UNG, but also available to the general population. The Cottages will contain up to three bedrooms, in a two-story plan, along with a full size kitchen and living area. Surface parking will be provided at a ratio of no less than one per bedroom. This site is a portion of a 21.39 +/- tract that was zoned PRD, with conditions, on January 28, 2021. Completion of development is anticipated by 2025.

Site Description

The site has approximately 450 LF of frontage along Tumbling Creek Road, rectangular in shape, and approximately 575 LF deep. The site is undeveloped with a mix of pine and hardwood trees. A small (1' - 3' wide) intermittent stream runs parallel with Tumbling Creek Road and a variance to the County's 25' undisturbed buffer is requested in a separate application.

Although the site is near Tumbling Creek, the development parcel is outside of the jurisdictional buffers and an additional buffer will be retained by UNG. A small portion of flood plain is located within the site and any impacts will be minimized. Domestic water, provided by the City of Gainesville, is located on the northeast side of Tumbling Creek Road. The City of Gainesville will also serve the site with sanitary sewer through a manhole located in Tumbling Creek Road. A water and sewer availability letter is included in the submittal package. All other dry utilities are located within a reasonable distance for service extensions. There are no known impediments to its successful development for the purposes intended.

Adjacencies (Exhibit "B")

Three sides of the site will be retained by the University of North Georgia and is currently zoned PRD. Other, non-adjacent uses include American Yazaki Corporation, zoned light industrial to the southeast and the Hawk's Nest at the Preserve, a multi-family project to the northeast.

Access

Access to the site is from Tumbling Creek Road, approximately 0.3 miles west of Atlanta Hwy (SR 13). Future access is also planned from the Tumbling Creek Connector, a proposed two-lane road by the University of North Georgia that will connect Tumbling Creek Road to Mathis Drive.

Proximity to Other Uses

- Nearest distance to undeveloped commercial property – parcel #08011 000004 zoned Light Industrial, 700' northeast at 2560 West Park Drive.
- Nearest distance to developed commercial property – parcel #08026 000009 zoned Light Industrial, adjacent to the site at 2735 Tumbling Creek Road.

- Nearest distance to a single family home – parcel #08025A 000005 zoned R-1, 2800' northwest of the site at 3104 Old Oakwood Road.
- Nearest distance to a subdivision – El Rancho Estates S/D is located 0.5 miles northwest of the site.

Aerial View



Prior Zoning Actions

This site represents 5.94 +/- acres of a 21.39 +/- acre tract that was rezoned from R-I to PRD (with conditions) on January 28, 2022. This application seeks to modify the conditions for this portion of overall site, as shown on Exhibit "C".

Comprehensive Plan Consistency

The project is consistent with the residential designation of the Future Land Use Map, and is not known or believed to be in conflict with the plan's vision.

Traffic Impact Study

A Traffic Impact Study is not required based on the unit count of less than 100.

Development Strategy

The Developer is purchasing the site from the University of North Georgia Real Estate Foundation for the purpose of developing a "for rent" community of detached cottages. The marketing would be geared toward university students, faculty, staff and others unrelated to the University. The Developer recently completed the University Commons project located on Commons Drive for a similar type product. The University has identified a need for additional housing, within close proximity to the Campus, and supports this application (letter from University included in the submittal package).

Project Dimensional Standards

Project Details	
Property Address	3055 Tumbling Creek Road
Parcel Numbers	p/o 08026 000005
Current Zoning	PRD
Proposed Zoning	PRD with site plan and condition modifications
Project Size	5.94 ac +/-
Number of Residential Units (Cottages)	38
Minimum Heated Floor Area	1300 SF
Residential Density (units per acre)	6.40
Maximum Height above grade	2 stories
Setback from Tumbling Creek Road	30'
Setback from Tumbling Creek Connector	30'
Side Setback	5'
Rear Setback	20'
Exterior Setback to Property retained by Seller	10'
Amenities	Community Lawn, Walking Trails
Water Utility Provider	City of Gainesville
Sanitary Sewer Provider	City of Gainesville
Minimum Parking Ratio (spaces per bedroom)	1
Open Space	30%

Architectural Elements

All of the cottages will be similar with a minimum of three - front elevation architectural modifications and follow a design theme that would include:

- Front Porches
- Front facades with a combination of masonry and hardi-plank materials
- Side & Rear facades with hardi-plank or shake siding
- Architectural weight shingles

Site Improvements

The site will be accessed through private drives and parking areas. All necessary requirements to allow access for public safety and other services will be provided. A central mail kiosk will be provided subject to USPS review and approval. Site Improvements may include the following structural items:

- Ground Mounted Project identification signage at both entrances
- 2 – Board Fencing along Tumbling Creek Road (outside of flood plain).
- Illuminated Signage in accordance with the Hall County Sign Ordinance
- 10' Landscape Strip along Tumbling Creek Road and the proposed Tumbling Creek Connector with single row of evergreen plant materials
- Parking Lot and Individual Unit Landscaping & Irrigation
- Sodded yards (4 sides)
- Street Trees in parking lot islands (minimum 2 ½" caliper)

Amenities

The community amenities at a minimum will contain the following items:

- Sidewalk Entry to all Cottages from Parking Lots
- Community Lawn Area
- Benches and Bile Racks
- Walking Trail with a tie to the proposed Tumbling Creek Preserve Trail

Signage

The Developer shall be allowed to post permanent directional signs and monuments within the Community to direct traffic to leasing centers and to identify Cottage locations. Temporary Sales and Marketing signs not exceeding 32 square feet per sign face and 8 feet in height may be used along Tumbling Creek Road.

Model Home Permits

The Developer requests that up to three (3) model home permits be issued prior to Final Plat recording provided that hard surface (crusher run) access is provided and fire protection (functioning hydrant) is located within 500 feet of any structure under construction. However,

no certificate of occupancy permits (CO) will be issued prior to final plat recording. Model Homes may be utilized as temporary leasing offices.

Sales and Construction Trailers

The Developer is requesting permission to install one sales trailer and one construction trailer with associated parking areas in locations to be determined at the time of street paving and possible ahead of final plat approval.

Professional Management

A Professional Manager will be engaged in order to administer the covenants, conditions and restrictions that will be placed on the property by the Developer. The Professional Manager will manage the property including leasing and maintenance.

Variance Request

The following Variances to §17.180.060 Planned Residential Development (PRD) standards are requested:

- Item #5 – No buffer shall be required along the perimeter of the property where the Seller owns the adjacent property. A 10' landscape strip shall be required along the rights-of-way of Tumbling Creek Road and the proposed Tumbling Creek Connector.
- Item #6.a – A minimum of one tree shall be provided for each unit.
- Item #7.b – Sidewalks will be provide adjacent to each parking bay with connecting sidewalks to the R/W of Tumbling Creek Road.
- Item #8 – Open space shall be provided at a ratio of 30% of the site area and not subject to the requirements of the conservation subdivision design.

Conceptual Master Plan

The development of the community shall be controlled by the Conceptual Master Plan (the "Plan") attached as Exhibit "A". The plan is considered conceptual in nature, and as such may require minor modifications during the engineering and development process. Modifications to the locations and arrangement of lots, roads, amenities, and other improvements that do not conflict with specific standards and requirements of these conditions may be made by the Developer, so long as such modifications do not change the land use, increase the overall density of the project or reduce any established exterior buffers or setbacks.

Change of Conditions Request

Current Conditions	Proposed Conditions
<p>1. The development shall generally occur as depicted on the site plan and described in the project narrative, modified for compliance with zoning conditions and Hall County regulations.</p>	<p>1. The development shall generally occur as depicted on the site plan, as modified, and described in the revised project narrative, modified for compliance with zoning conditions and Hall County regulations.</p>
<p>2. The proposed residential development shall conform to §17.180.060 Planned Residential Development (PRD) standards, except for where variances are approved as part of this application.</p>	<p>2. The proposed residential development shall conform to §17.180.060 Planned Residential Development (PRD) standards, except for where variances are approved as part of this application.</p>
<p>3. The following standards shall apply to the development:</p> <ul style="list-style-type: none"> a. Use: Apartments (Student Housing) <ul style="list-style-type: none"> 1. 164 total units/582 total bedrooms 2. Density of 7.67 units per acre b. Setbacks: <ul style="list-style-type: none"> 1. Front: 55 feet from centerline of road OR 30 feet from property line, whichever is greater. 2. Side: 10 feet 3. Rear: 20 feet c. Parking: 647 spaces, subject to Hall County regulations. d. Open Space: 11.9 acres (55.6%) e. Buffers: A minimum 50-foot planted buffer shall be established along the perimeter of all property boundaries adjacent to residential and/or non-residential zoning districts to ensure that the planned residential development is appropriately screened. The planted buffers shall conform to the requirements as described in section 17.260.020 title Vegetation Buffers and Vision Clearance. In conditions where required stream buffers exist along a perimeter property boundary, the Planning Director may grant exemptions from the 50-foot planted buffer if a stream buffer meets or exceeds the 50-foot planted buffer width. f. Where the development is adjacent to the right-of-way there shall be a 10-foot planted landscape strip required. g. Architectural standards: All facades of all residences shall be finished with brick, stone, stucco, wood siding, wood shakes, or fiber cement type siding. The front facades shall incorporate changes in building material, texture, and/or color. Vinyl siding on all residential and non-residential buildings shall be prohibited. 	<p>3. The following standards shall apply to the development:</p> <ul style="list-style-type: none"> a. Use: Rental Cottages <ul style="list-style-type: none"> 1. 38 total units/114 total bedrooms 2. Density of 6.4 units per acre b. Setbacks: <ul style="list-style-type: none"> 1. From R/W: 30 feet 2. Side: 5 feet 3. Rear: 20 feet c. Parking: 114 spaces, subject to Hall County regulations. d. Open Space: 1.53 acres (30%) e. Buffers: No buffers will be required against adjacent property retained by the Seller. f. Where the development is adjacent to the right-of-way there shall be a 10-foot planted landscape strip required. g. Architectural standards: All facades of all residences shall be finished with brick, stone, stucco, wood siding, wood shakes, or fiber cement type siding. The front facades shall incorporate changes in building material, texture, and/or color. Vinyl siding on all residential and non-residential buildings shall be prohibited.

<p>4. An updated traffic study may be required prior to the issuance of a land disturbance permit. The developer shall work with Hall County Engineering and/or the Georgia Department of Transportation (GDOT) in determining the road improvements necessary to serve this development.</p>	<p>4. An updated traffic study will not be required for this project due to the unit count falling below the threshold of 100 units. The developer shall work with Hall County Engineering and/or the Georgia Department of Transportation (GDOT) in determining the road improvements necessary to serve this development.</p>
<p>5. It is the intent of the applicant that his development shall serve the students of the University of North Georgia's Gainesville Campus</p>	<p>It is the intent of the applicant that his development shall serve the students, faculty, staff of the University of North Georgia's Gainesville Campus, but tenancy will not be limited to these users.</p>
<p>6. The following language shall be placed upon the Rental Agreement and the Final Plat of the PRD and PCD as defined by 17.20.830 of the Hall County Code and it will read, "Owners and users of this property are informed of industrial uses nearby and should expect noise, odors, and other effects associated with such industrial properties."</p>	<p>6. The following language shall be placed upon the Rental Agreement and the Final Plat of the PRD and PCD as defined by 17.20.830 of the Hall County Code and it will read, "Owners and users of this property are informed of industrial uses nearby and should expect noise, odors, and other effects associated with such industrial properties."</p>
<p>7. The applicant, in developing the property, shall cooperate with Hall County regarding connectivity and development of the Highlands to Islands trail network.</p>	<p>7. The applicant, in developing the property, shall cooperate with Hall County regarding connectivity and development of the Highlands to Islands trail network.</p>

REQUIRED CONSTITUTIONAL AND ANTE LITEM NOTICE

Georgia law and the procedures of Hall County requires the Applicant to raise Federal and State constitutional objections during the PRD application & amendment process. While the Applicant anticipates a smooth application process, failure to raise constitutional objections at this stage may mean that the Applicant will be barred from raising important legal claims later in the process. Accordingly, the following constitutional objections are stated:

The portions of the Hall County Development Code, facially and as applied to the Property, which restrict the Property to any uses, conditions, land use designations, development standards, or to any zoning district other than that proposed by the Applicant are unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the Hall County Development Code, facially and as applied to the Property, which restricts the Property to any uses, conditions, land use designations, development standards, or to any zoning district other than in accordance with the application as proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States; Article I, Section I, Paragraph I, and Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would be unconstitutional under the Takings Clause of the Fifth Amendment to the Constitution of the United States and the Just Compensation Clause of Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983. A refusal by the Hall County Board of Commissioners to approve the zoning conditions as requested would constitute a taking of the Applicant's property.

A denial of this Application would constitute an arbitrary and capricious act by the Hall County Board of Commissioners without any rational basis therefore constituting an abuse of discretion in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States. A refusal to grant the PRD zoning request would lack objective justification and would result only from neighborhood opposition, which would constitute an unlawful delegation of the zoning power to non-legislative bodies in violation of the Georgia Constitution, Article IX, Section II, Paragraph 4.

A refusal by the Hall County Board of Commissioners to approve this Application for the Property in accordance with the criteria as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of the similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting Applicant's utilization of the Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to a unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

I. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that this PRD master plan application be granted as requested by the Applicant. If there are any questions about this request, you may contact:

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