



MEMORANDUM
Office of the City Attorney

Legistar No. 071154

Phone: 334-5011/Fax 334-2229
Box 46

TO: Mayor and City Commission

DATE: OCTOBER 16, 2008

ADOPTION READING

FROM: City Attorney

SUBJECT: Ordinance No. 0-06-122; Petition 116CPA-07 PB

An ordinance of the City of Gainesville, Florida, amending the Future Land Use Element of the City of Gainesville 2000-2010 Comprehensive Plan by adding a new land use category, "Business Industrial," to policy 4.1.1, specifying conditions and limitations; providing directions to the city manager; providing a severability clause; providing a repealing clause; and providing an effective date.

Recommendation: The City Commission adopt the ordinance, as amended by City staff.

PLANNING & DEVELOPMENT SERVICES DEPARTMENT
STAFF REPORT

On May 12, 2008, the City Commission approved this ordinance for transmittal to the Florida Department of Community Affairs (DCA) for review in accordance with state law. On August 26, 2008, DCA issued its Objections, Recommendation and Comments (ORC) Report to the City (attached as **Exhibit "A"**.) In the ORC Report, the DCA's objection to the proposed Business Industrial future land use category was that the City did not include an intensity standard; therefore, the comprehensive plan amendment was not in compliance with Sections 163.3177(6)(a) and 187.201 (25) Plan Implementation, Goal (a) and Policy (b)7, Florida Statutes, and with Rules 9J-5.005(6) and 9J-5.006(3)(c)7., Florida Administrative Code. In response, Planning staff has revised the ordinance to include a maximum floor area ratio of 4.0 for the Business Industrial future land use category. The City staff response to the ORC Report is attached as **Exhibit "B"**.

As defined in the City's Land Development Code, "Floor Area Ratio" means the extent of development of any lot, expressed as a ratio of the gross floor area of all buildings on the lot (or of all principal buildings on the lot if the ratio is so limited) to the total lot area. A floor area ratio of 4.0 is a reasonable maximum allowance for this future land use category which has a five-story height limitation. By way of example, a Floor Area Ratio of 4.0 would allow a 5-story building with 80,000 square feet on each floor (a total of 400,000 square feet) on a 100,000 square-foot lot, subject to other zoning limitations.

BACKGROUND

In April 2007, the County submitted a petition (47LUC-07PB) that proposed changing the Alachua County Fairground site land use to Mixed-Use Medium (MU-M) and a petition (48CPA-07PB) to modify the MU-M land use category to accommodate a proposed industrial business park on the Fairground site adjacent to the Airport. After extensive review of the petitions by both City and County staff, it was determined that it would be inconsistent to apply a land use category that allowed residential development in such close proximity to the Airport. However, almost all of the City's existing land use categories allow some type of residential development, including the industrial land use category. The proposed Business Industrial land use category is developed specifically to be applied to properties near the Airport and to other areas of the City where office, business, commercial or industrial uses are desired and residential use is not appropriate.

On November 15, 2007, the City Plan Board heard the petition and by a vote of 7-0 recommended the City Commission approve the Petition. On May 12, 2008, the City Commission approved the petition and ordinance on first reading.

CITY ATTORNEY MEMORANDUM

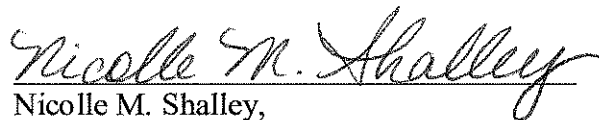
Florida Statutes set forth the procedure for adoption of an amendment to the Comprehensive Plan. The first hearing is held at the transmittal state and must be advertised seven days prior to the first public hearing. The second hearing will be held at the adoption stage of the ordinance and must be advertised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

Fiscal Note. None.


Prepared by:


Nicolle M. Shalley,

Assistant City Attorney II

Approved and

Submitted by:


Marion J. Radson,
City Attorney

MJR:NMS:sw



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

August 26, 2008

The Honorable Pegeen Hanrahan
Mayor, City of Gainesville
P.O. Box 490, Station 19
Gainesville, FL 32601-0490

RE: City of Gainesville Proposed Comprehensive Plan Amendment 08-1

Dear Mayor Hanrahan:

The Department has completed its review of the proposed Comprehensive Plan Amendment for the City of Gainesville (DCA 08-1), which was received on June 27, 2008. Based on Chapter 163, Florida Statutes, we have prepared the attached report, which outlines our findings concerning the amendment. It is particularly important that the City address the 'objections' set forth in our review report so that these issues can be successfully resolved prior to adoption. We have also included a copy of local, regional and state agency comments for your consideration. Within the next 60 days, the City should act by choosing to adopt, adopt with changes or not adopt the proposed amendment. For your assistance, our report outlines procedures for final adoption and transmittal.

The amendment package consists of two Future Land Use Map amendments each with specific policies guiding the development of the amendment site and amendments to Future Land Use Element Policy 4.1.1 adding a new Business Industrial future land use category and deleting the current allowance for an additional 2 stories of building height by Special Use Permit to the Urban Mixed-Use-1 future land use category. The Department commends the City on its commitment to the protection of natural resources as evidenced in the proposed policies guiding development of the Hatchet Creek and LandMar amendment sites. However, at the same time the Department has concerns that the policy related to the LandMar amendment needs additional guidelines to ensure the compatibility with adjacent uses and to address urban sprawl and long term transportation impacts. The Department has also identified issues with the proposed Hatchet Creek amendment based on a self amending proposed policy. With regards to the proposed Business Industrial future land use category the Department has identified the need for the City to include a measurable intensity standard for the category.

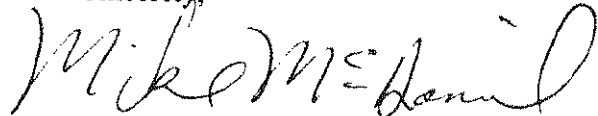
2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-2100
850-488-8466 (p) • 850-921-0781 (f) • Website www.dca.state.fl.us

• COMMUNITY PLANNING 850-488-2366 (p) 850-488-3309 (f) •
• HOUSING AND COMMUNITY DEVELOPMENT 850-488-7956 (p) 850-922-5623 (f) •

The Honorable Pegeen Hanrahan
August 26, 2008
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I believe the concerns outlined in our report can be resolved with additional attention to the amendment. If you, or your staff, have any questions or if we may be of further assistance as you formulate your response to this Report, please contact Ana Richmond, Principal Planner, via email at anastasia.richmond@dea.state.il.us or by phone at (850) 922-1794.

Sincerely,



Mike McDaniel
Chief, Office of Comprehensive Planning

MM/ar

Enclosures: Objections, Recommendations and Comments Report
Review Agency Comments

cc: Mr. Scott Koons, AICP, Executive Director, North Central Florida RPC
Mr. Dean Mimms, AICP, Chief of Comprehensive Planning City of Gainesville
Mr. Allan Penska, Gainesville Regional Airport
Ms. Linda Shelly, Esq., Flower, White, Banker and Boggs

TRANSMITTAL PROCEDURES

The process for adoption of local comprehensive plan amendments is outlined in s. 163.3184, Florida Statutes, and Rule 9J-11.011, Florida Administrative Code.

Within ten working days of the date of adoption, the City must submit the following to the Department:

- Three copies of the adopted comprehensive plan amendment;
- A copy of the adoption ordinance;
- A listing of additional changes not previously reviewed;
- A listing of findings by the local governing body, if any, which were not included in the ordinance; and
- A statement indicating the relationship of the additional changes to the Department's Objections, Recommendations and Comments Report.

The above amendment and documentation are required for the Department to conduct a compliance review, make a compliance determination and issue the appropriate notice of intent.

In order to expedite the regional planning council's review of the amendment, and pursuant to Rule 9J-11.011(5), F.A.C., please provide a copy of the adopted amendment directly to Mr. Scott Koons, AICP, Executive Director of the North Central Florida Regional Planning Council.

Please be advised that the Florida legislature amended Section 163.3184(8)(b), F.S., requiring the Department to provide a courtesy information statement regarding the Department's Notice of Intent to citizens who furnish their names and addresses at the local government's plan amendment transmittal (proposed) or adoption hearings. In order to provide this courtesy information statement, local governments are required by the law to furnish to the Department the names and addresses of the citizens requesting this information. This list is to be submitted at the time of transmittal of the adopted plan amendment.

**DEPARTMENT OF COMMUNITY AFFAIRS
OBJECTIONS, RECOMMENDATIONS AND COMMENTS
FOR THE CITY OF GAINSEVILLE
COMPREHENSIVE PLAN AMENDMENT 08-1**

August 26, 2008
Division of Community Planning
Office of Local Planning

This report is prepared pursuant to Rule 9J-11.010, F.A.C.

INTRODUCTION

The following objections, recommendations and comments are based upon the Department's review of the City of Gainesville's proposed amendment to their comprehensive plan (DCA number 08-1) pursuant to Chapter 163.3184, Florida Statutes (F.S.).

The objections relate to specific requirements of relevant portions of Rule 9J-5, Florida Administrative Code (F.A.C.), and Chapter 163, Part II, F.S. Each objection includes a recommendation of one approach that might be taken to address the cited objection. Other approaches may be more suitable in specific situations. Some of these objections may have initially been raised by one of the other external review agencies. If there is a difference between the Department's objection and the external agency advisory objection or comment, the Department's objection would take precedence.

Each of these objections must be addressed by the local government and corrected when the amendment is resubmitted for our compliance review. Objections, which are not addressed, may result in a determination that the amendment is not in compliance. The Department may have raised an objection regarding missing data and analysis items, which the local government considers not applicable to its amendment. If that is the case, a statement justifying its non-applicability pursuant to Rule 9J-5.002(2), F.A.C., must be submitted. The Department will make a determination on the non-applicability of the requirement, and if the justification is sufficient, the objection will be considered addressed.

The comments, which follow the objections and recommendations section, are advisory in nature. Comments will not form bases of a determination of non-compliance. They are included to call attention to items raised by our reviewers. The comments can be substantive, concerning planning principles, methodology or logic, as well as editorial in nature dealing with grammar, organization, mapping, and reader comprehension.

Appended to the back of the Department's report are the comment letters from the other state review agencies and other agencies, organizations and individuals. These comments are advisory to the Department and may not form bases of Departmental objections unless they appear under the "Objections" heading in this report.

OBJECTIONS, RECOMMENDATIONS AND COMMENTS REPORT

FOR THE CITY OF GAINESVILLE

PROPOSED COMPREHENSIVE PLAN AMENDMENT 08-1

I. CONSISTENCY WITH CHAPTER 163, F.S. and RULE 9J-5, F.A.C.

A. Future Land Use Map

The City has proposed Ordinance 070447 (LandMar) proposing to convert 1,754 acres from Alachua County Rural/Agriculture and City Agriculture to Single Family, Planned Use District and Conservation.

1. Objection: The City has not adopted its Public School Facilities Element and Interlocal Agreement by the scheduled date of July 1, 2008 as required by Section 163.3177(12)(i), F.S. Therefore, pursuant to Section 163.3177(12) (j),F.S., the City is prohibited from adopting amendments to the comprehensive plan which increase residential density. Therefore, the City cannot adopt proposed LandMar FLUM amendment, which has the potential to increase residential density, until the City adopts and transmits its Public School Facilities Element along with associated comprehensive plan amendments implementing school concurrency along with an executed Public School Interlocal Agreement.

[Section 163.3177(12)(j), F. S.]

Recommendation: The City must first adopt and transmit the Public Educational Facilities Element and executed Interlocal Agreement to the Department. Then based on the level of service standards and concurrency service areas the City should provide adequate data and analysis supporting the LandMar amendment. Should the capacity not be available to serve the amendment site the City should either revise the amendment to reduce school impacts or include mitigation through the appropriate district facilities work plan for the amendment consistent with the mitigation options included in the Public Educational Facilities Element.

2. Objection: As proposed, the majority of the site, approximately 1,000 acres, would be devoted to low density single family housing, creating a pattered that is inefficient, promotes dependence on the automobile, and discourages a diversity of housing types.. The amendment therefore exhibits the following indicators of urban sprawl:

- Promotes, allows or designates for development substantial areas of the jurisdiction to develop as low-intensity, low-density, or single-use development.
- Promotes, allows or designates urban development in radial, strip, isolated or ribbon patterns generally emanating from existing urban developments.
- As a result of premature or poorly planned conversion of rural land to other uses, fails adequately to protect and conserve natural resources, such as wetlands, floodplains, native vegetation, environmentally sensitive areas, natural groundwater aquifer recharge areas, and other significant natural systems.
- Fails to maximize use of existing public facilities and services.

- Fails to maximize use of future public facilities and services.
- Allows for land use patterns or timing which disproportionately increase the cost in time, money and energy, of providing and maintaining facilities and services, including roads, potable water, sanitary sewer, stormwater management, law enforcement, education, health care, fire and emergency response, and general government.
- Fails to provide a clear separation between rural and urban uses.
- Fails to encourage an attractive and functional mix of uses.
- Results in poor accessibility among linked or related land uses.
- Results in the loss of significant amounts of functional open space

Authority: Sections 163.3177(2), (5), (6)(a), and (8), F.S., and Rules 9J-5.005(2), (5), 9J-5.006(1)(g), (2)(c), (3)(b)1. & 8., (3)(c)3., and (5), 9J-5.011(2)(b)3., F.A.C.

Recommendation: The Department recommends the City reduce the amendment size and revise the single family density to ensure the amendment will promote a sustainable development pattern that creates a choice in housing opportunities. The amendment should be sized so that housing, jobs, daily needs and other activities are at a scale that will promote interconnectivity and are within easy walking distance of each other. Revise the amendments to include provisions that further address urban form and housing and include an analysis that demonstrates the amendments discourage the proliferation of urban sprawl consistent with the requirements of Rule 9J-5, F.A.C.

3. Objection: Rule 9J-5.006(3)(c)2., F.A.C., requires provisions for compatibility of adjacent land uses. The proposed Single Family land use is incompatible with the Industrial land use located at the southwest corner of the LandMar amendment site, and the amendment lacks provisions which will ensure the uses will be compatible.

[Sections 163.3177(6)(a) and (8), F.S.; and Rules 9J-5.005(2), 9J-5.006(3)(c)2., F.A.C.]

Recommendation: The City should revise Policy 4.3.4.D to include a substantial buffer from the adjacent Industrial land use on the southwest boundary of the site. The Department recommends a minimum of 300 feet. The buffer should ensure the proposed residential development will not impact the operations or expansion of the existing industrial uses adjacent to the site.

4. Objection: The LandMar amendment represents a significant increase in development potential and impacts to SR 121. Although, the amendment proposes to limit development within the first five years to a level that will not degrade the level of service on SR 121 the City has not identified potential improvements to maintain the level of service on SR 121 within the planning horizon or build out of the amendment site.

[Sections 163.3177(2), (3)(a), (6)(a)&(j), (8), F.S. and Rules 9J-5.005(2); 9J-5.006(3)(b)1, and (3)(c)3.; 9J-5.016(1)(a), (2)(b and c), (3)(b)1, 3, & 5, and (4)(a)1 & 2; 9J-5.019(3)(f, g and h), (4)(b)2 & 3, (5), F.A.C.]

Recommendation: The Department recommends the City include amendments to Capital Improvements Element and Traffic Circulation Map to address long range planning efforts to maintain the level of service standard for SR 121.

B. Future Land Use Element

1. Objection: The City has proposed to amend Policy 4.1.1 to create a new Business Industrial future land use category. The City has not included an intensity standard for the proposed future land use category.

[Sections 163.3177(6)(a), F.S. and Rules 9J-5.005(6), 9J-5.006(3)(c)7., F.A.C.]

Recommendation: The City should revise the policy to establish a standard for intensity of land use for the proposed Business Industrial future land use category. Possible standards for non-residential standards include the use of floor area ratios (FARs) or impervious surface ratios (ISRs), based on square feet per acre, in combination with building height limitations and types of uses allowed.

2. Objection: The City has proposed policy 4.3.5 to guide development on the Hatchet Creek amendment site (Ordinance 070210). As proposed, Policy 4.3.5.d is self amending. The proposed policy would allow a different version of the Airport Noise Zone Map at the PD zoning stage from that adopted into the Comprehensive Plan through proposed Policy 4.3.5. Land development regulations and development orders are to be consistent with the adopted comprehensive plan. Allowing the PD to control land use and allowing a different version of the Airport Noise Zone map at the PD zoning ordinance stage from that included with the Comprehensive Plan is self-amending and creates potential inconsistency between the PD zoning and the Comprehensive Plan.

[Sections 163.3177(1), (6)(a), F.S. and Rule 9J-5.005(2)(g), F.A.C.]

Recommendation: The City should revise the policy to delete the reference to allowing the PD to control land use and allowing a different map at the PD zoning stage. The Airport Noise Zone map referenced in the Policy needs to be adopted into the plan. Alternatively the City may adopt it by reference however, the City must include the date, author and source of the map should it be adopted by reference. Any updated Airport Noise Zone map should be incorporated into the plan through the plan amendment process.

II. CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN

A. Future Land Use Map

1. Objection related to the need to adopt school concurrency provisions prior to the adoption of the LandMar amendment: The proposed plan amendments are not consistent with and do not further the following goal and policy of the State Comprehensive Plan [Section 187.201, F.S.]:

(25) Plan Implementation, Goal (a) and Policy (b)7.

Recommendation: Revise the amendments, as necessary, to be consistent with the above referenced goals and policies of the State Comprehensive Plan. Specific recommendations can be found following the objection cited previously in this report.

2. Objection related to the proposed LandMar amendment related to the proliferation of urban sprawl: The proposed plan amendment is not consistent with and does not further the following goals and policies of the State Comprehensive Plan [Section 187.201, F.S.]:

- (15) Land use, Goal (a) and Policies (b)2; and
- (25) Plan Implementation, Goal (a) and Policy (b) 7.

Recommendation: Revise the amendments, as necessary, to be consistent with the above referenced goal and policy of the State Comprehensive Plan. Specific recommendations can be found following the objection cited previously in this report

3. Objection related to the proposed LandMar amendment related to compatibility: The proposed plan amendment is not consistent with and does not further the following goals and policies of the State Comprehensive Plan [Section 187.201, F.S.]:

- (15) Land use, Goal (a) and Policies (b)2; and
- (25) Plan Implementation, Goal (a) and Policy (b) 7.

Recommendation: Revise the amendments, as necessary, to be consistent with the above referenced goal and policy of the State Comprehensive Plan. Specific recommendations can be found following the objection cited previously in this report

4. Objection related to the proposed LandMar amendment related to long range transportation impacts: The proposed plan amendment is not consistent with and does not further the following goals and policies of the State Comprehensive Plan [Section 187.201, F.S.]:

- (15) Land use, Goal (a) and Policies (b)1;
- (17) Public Facilities, Goal (a) and Policies (b)1 and 7;
- (19) Transportation, Goal (a) and Policies (b)3, 7, 9, 12, and 13; and
- (25) Plan Implementation, Goal (a) and Policy (b) 7.

Recommendation: Revise the amendments, as necessary, to be consistent with the above referenced goal and policy of the State Comprehensive Plan. Specific recommendations can be found following the objection cited previously in this report

B. Future Land Use Element

1. Objection related to the proposed Business Institutional future land use category (Ordinance 071154): The proposed plan amendment is not consistent with and does not further the following goal and policy of the State Comprehensive Plan [Section 187.201, F.S.]:

- (25) Plan Implementation, Goal (a) and Policy (b)7.

Recommendation: Revise the amendments, as necessary, to be consistent with the above referenced goals and policies of the State Comprehensive Plan. Specific recommendations can be found following the objection cited previously in this report

2. Objection related to proposed Hatchet Creek Policy 4.3.5.d: The proposed plan amendment is not consistent with and does not further the following goals and policies of the State Comprehensive Plan [Section 187.201, F.S.]:

- (15) Land use, Goal (a) and Policies (b)2; and
- (25) Plan Implementation, Goal (a) and Policy (b) 7.

Recommendation: Revise the amendments, as necessary, to be consistent with the above referenced goal and policy of the State Comprehensive Plan. Specific recommendations can be found following the objection cited previously in this report.

October 1, 2008

City Staff Responses to:

OBJECTIONS, RECOMMENDATIONS AND COMMENTS REPORT (issued 8/26/08)

FOR THE CITY OF GAINESVILLE

PROPOSED COMPREHENSIVE PLAN AMENDMENT 08-1

I. CONSISTENCY WITH CHAPTER 163, F.S. and RULE 9J-5, F.A.C.

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[Section 163.3177(12)(j), F. S.]

Recommendation: The City must first adopt and transmit the Public Educational Facilities Element and executed Interlocal Agreement to the Department. Then based on the level of service standards and concurrency service areas the City should provide adequate data and analysis supporting the LandMar amendment. Should the capacity not be available to serve the amendment site the City should either revise the amendment to reduce school impacts or include mitigation through the appropriate district facilities work plan for the amendment consistent with the mitigation options included in the Public Educational Facilities Element.

City Response: *Agreed. Please note that we are moving the Landmar comprehensive plan amendment (Ordinance 070447), which proposes an increase in residential density, from the DCA 08-1 group of amendments to the DCA 08-2 group that is to be adopted subsequent to adoption of the Public Educational Facilities Element. We will develop responses to each of the Objections regarding Landmar and include them in the DCA 08-2 adoption packet.*

2. Objection: As proposed, the majority of the site, approximately 1,000 acres, would be devoted to low density single family housing, creating a pattern that is inefficient, promotes

dependence on the automobile, and discourages a diversity of housing types. The amendment therefore exhibits the following indicators of urban sprawl:

- Promotes, allows or designates for development substantial areas of the jurisdiction to develop as low-intensity, low-density, or single-use development.
- Promotes, allows or designates urban development in radial, strip, isolated or ribbon patterns generally emanating from existing urban developments.
- As a result of premature or poorly planned conversion of rural land to other uses, fails adequately to protect and conserve natural resources, such as wetlands, floodplains, native vegetation, environmentally sensitive areas, natural groundwater aquifer recharge areas, and other significant natural systems.
- Fails to maximize use of existing public facilities and services.
- Fails to maximize use of future public facilities and services.
- Allows for land use patterns or timing which disproportionately increase the cost in time, money and energy, of providing and maintaining facilities and services, including roads, potable water, sanitary sewer, stormwater management, law enforcement, education, health care, fire and emergency response, and general government.
- Fails to provide a clear separation between rural and urban uses.
- Fails to encourage an attractive and functional mix of uses.
- Results in poor accessibility among linked or related land uses.
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Authority: Sections 163.3177(2), (5), (6)(a), and (8), F.S., and Rules 9J-5.005(2), (5), 9J-5.006(1)(g), (2)(c), (3)(b)1. & 8., (3)(c)3., and (5), 9J-5.011(2)(b)3., F.A.C.

Recommendation: The Department recommends the City reduce the amendment size and revise the single family density to ensure the amendment will promote a sustainable development pattern that creates a choice in housing opportunities. The amendment should be sized so that housing, jobs, daily needs and other activities are at a scale that will promote interconnectivity and are within easy walking distance of each other. Revise the amendments to include provisions that further address urban form and housing and include an analysis that demonstrates the amendments discourage the proliferation of urban sprawl consistent with the requirements of Rule 9J-5, F.A.C.

City Response: *As explained in our Response to Objection no. 1, we are moving the Landmar plan amendment (Ordinance 070447) to the DCA 08-2 group that is to be adopted subsequent to adoption of the Public Educational Facilities Element. We will develop responses to each Objection regarding Landmar and include them in the DCA 08-2 adoption packet.*

3. Objection: Rule 9J-5.006(3)(c)2., F.A.C., requires provisions for compatibility of adjacent land uses. The proposed Single Family land use is incompatible with the Industrial land use located at the southwest corner of the LandMar amendment site, and the amendment lacks provisions which will ensure the uses will be compatible.

[Sections 163.3177(6)(a) and (8), F.S.; and Rules 9J-5.005(2), 9J-5.006(3)(c)2., F.A.C.]

Recommendation: The City should revise Policy 4.3.4.D to include a substantial buffer from the adjacent Industrial land use on the southwest boundary of the site. The Department recommends a minimum of 300 feet. The buffer should ensure the proposed residential development will not impact the operations or expansion of the existing industrial uses adjacent to the site.

City Response: As explained in our Responses above, we are moving the Landmar plan amendment (Ordinance 070447) to the DCA 08-2 group that is to be adopted subsequent to adoption of the Public Educational Facilities Element. We will develop our responses to each Objection pertaining to Landmar and include them in the DCA 08-2 adoption packet.

4. Objection: The LandMar amendment represents a significant increase in development potential and impacts to SR 121. Although, the amendment proposes to limit development within the first five years to a level that will not degrade the level of service on SR 121 the City has not identified potential improvements to maintain the level of service on SR 121 within the planning horizon or build out of the amendment site.

[Sections 163.3177(2), (3)(a), (6)(a)&(j), (8), F.S. and Rules 9J-5.005(2); 9J-5.006(3)(b)1, and (3)(c)3.; 9J-5.016(1)(a), (2)(b and c), (3)(b)1, 3, & 5, and (4)(a)1 & 2; 9J-5.019(3)(f, g and h), (4)(b)2 & 3, (5), F.A.C.]

Recommendation: The Department recommends the City include amendments to Capital Improvements Element and Traffic Circulation Map to address long range planning efforts to maintain the level of service standard for SR 121.

City Response: As explained in our Responses above, we are moving the Landmar plan amendment (Ordinance 070447) to the DCA 08-2 group that is to be adopted subsequent to adoption of the Public Educational Facilities Element. We will develop our responses to each Objection pertaining to Landmar and include them in the DCA 08-2 adoption packet.

B. Future Land Use Element

1. Objection: The City has proposed to amend Policy 4.1.1 to create a new Business Industrial future land use category. The City has not included an intensity standard for the proposed future land use category.

[Sections 163.3177(6)(a), F.S. and Rules 9J-5.005(6), 9J-5.006(3)(c)7., F.A.C.]

Recommendation: The City should revise the policy to establish a standard for intensity of land use for the proposed Business Industrial future land use category. Possible standards for non-residential standards include the use of floor area ratios (FARs) or impervious surface ratios (ISRs), based on square feet per acre, in combination with building height limitations and types of uses allowed.

City Response: We have addressed this Objection regarding intensity standards by establishing a maximum floor area ratio of 4.0 (added text is double-underlined) in the proposed Business Industrial land use category, as follows:

- **Business Industrial.** This land use category is primarily intended to identify those areas near the Gainesville Regional Airport appropriate for office, business, commercial and industrial uses. This district is distinguished from other industrial and commercial districts in that it is designed specifically to allow only uses that are compatible with the airport. Intensity will be controlled by adopting land development regulations that establish height limits consistent with the Airport Hazard Zoning Regulations. When not located within an airport zone of influence, this category may be used to designate areas for office, business, commercial and industrial uses, with a maximum height of 5 stories and a maximum floor area ratio of 4.0. Land development regulation(s) shall specify the type and distribution of uses, design criteria, landscaping, pedestrian and vehicular access.

2. Objection: The City has proposed policy 4.3.5 to guide development on the Hatchet Creek amendment site (Ordinance 070210). As proposed, Policy 4.3.5.d is self amending. The proposed policy would allow a different version of the Airport Noise Zone Map at the PD zoning stage from that adopted into the Comprehensive Plan through proposed Policy 4.3.5. Land development regulations and development orders are to be consistent with the adopted comprehensive plan. Allowing the PD to control land use and allowing a different version of the Airport Noise Zone map at the PD zoning ordinance stage from that included with the Comprehensive Plan is self-amending and creates potential inconsistency between the PD zoning and the Comprehensive Plan.

[Sections 163.3177(1), (6)(a), F.S. and Rule 9J-5.005(2)(g), F.A.C.]

Recommendation: The City should revise the policy to delete the reference to allowing the PD to control land use and allowing a different map at the PD zoning stage. The Airport Noise Zone map referenced in the Policy needs to be adopted into the plan. Alternatively the City may adopt it by reference however, the City must include the date, author and source of the map should it be adopted by reference. Any updated Airport Noise Zone map should be incorporated into the plan through the plan amendment process.

City Response: We have addressed this Objection by deleting the sentence regarding future amendment of the Airport Noise Zone, and by including the date, author and source of the Airport Noise Zone map. Proposed, revised Policy 4.3.5 d., with additions double-underlined and deletions strikethrough, follows.

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:

...

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:" which consists of the map entitled "Airport Noise Zone – Gainesville Regional Airport", dated March 1999 and prepared by the City of Gainesville's Department of Community Development. The source of the map is CH2M Hill, Drawing 4, Gainesville Regional Airport Master Plan, Prepared under the Airport and Airway Improvement Act of 1982, as stated on the map. 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.

II. CONSISTENCY WITH THE STATE COMPREHENSIVE PLAN

A. Future Land Use Map

1. Objection related to the need to adopt school concurrency provisions prior to the adoption of the LandMar amendment: The proposed plan amendments are not consistent with and do not further the following goal and policy of the State Comprehensive Plan [Section 187.201, F.S.]:

(25) Plan Implementation, Goal (a) and Policy (b)7.

Recommendation: Revise the amendments, as necessary, to be consistent with the above referenced goals and policies of the State Comprehensive Plan. Specific recommendations can be found following the objection cited previously in this report.

City Response: The referenced sub-sections of F.S. 187.201 (25) Plan Implementation are:

(a) Goal. Systematic planning capabilities shall be integrated into all levels of government in Florida with particular emphasis on improving intergovernmental coordination and maximizing citizen involvement.

(b) Policies.

7. Insure the development of strategic regional policy plans and local plans that implement and accurately reflect state goals and policies and that address problems, issues, and conditions that are of particular concern in a region.

As explained in our Response to Objection 1 under I. **CONSISTENCY WITH CHAPTER 163, F.S. and RULE 9J-5, F.A.C. - A. Future Land Use Map**, we are moving the Landmar comprehensive plan amendment (Ordinance 070447), which proposes an increase in residential density, from the DCA 08-1 group of amendments to the DCA 08-2 group that is to be adopted subsequent to adoption of the Public Educational Facilities Element. We will develop responses to each of the Objections regarding Landmar and include them in the DCA 08-2 adoption packet.

2. Objection related to the proposed LandMar amendment related to the proliferation of urban sprawl: The proposed plan amendment is not consistent with and does not further the following goals and policies of the State Comprehensive Plan [Section 187.201, F.S.]:

- (15) Land use, Goal (a) and Policies (b)2; and
- (25) Plan Implementation, Goal (a) and Policy (b) 7.

Recommendation: Revise the amendments, as necessary, to be consistent with the above referenced goal and policy of the State Comprehensive Plan. Specific recommendations can be found following the objection cited previously in this report.

City Response: *The referenced sub-sections of F.S. 187.201, in addition to the above-referenced sub-sections on Plan Implementation, are:*

15) Land Use.

(a) Goal. In recognition of the importance of preserving the natural resources and enhancing the quality of life of the state, development shall be directed to those areas which have in place, or have agreements to provide, the land and water resources, fiscal abilities, and service capacity to accommodate growth in an environmentally acceptable manner.

(b) Policies.

2. Develop a system of incentives and disincentives which encourages a separation of urban and rural land uses while protecting water supplies, resource development, and fish and wildlife habitats.

As explained in our Response to Objection 2 under I. CONSISTENCY WITH CHAPTER 163, F.S. and RULE 9J-5, F.A.C. - A. Future Land Use Map, we are moving the Landmar comprehensive plan amendment (Ordinance 070447) from the DCA 08-1 group of amendments to the DCA 08-2 group that is to be adopted subsequent to adoption of the Public Educational Facilities Element. We will develop responses to each of the Objections regarding Landmar and include them in the DCA 08-2 adoption packet.

3. Objection related to the proposed LandMar amendment related to compatibility: The proposed plan amendment is not consistent with and does not further the following goals and policies of the State Comprehensive Plan [Section 187.201, F.S.]:

- (15) Land use, Goal (a) and Policies (b)2; and
- (25) Plan Implementation, Goal (a) and Policy (b) 7.

Recommendation: Revise the amendments, as necessary, to be consistent with the above referenced goal and policy of the State Comprehensive Plan. Specific recommendations can be found following the objection cited previously in this report.

City Response: *The referenced sub-sections of F.S. 187.201 are shown in the two preceding Responses. As explained in our Response to Objection 3 under I. CONSISTENCY WITH CHAPTER 163, F.S. and RULE 9J-5, F.A.C. - A. Future Land Use Map, we are moving the Landmar comprehensive plan amendment (Ordinance 070447) from the DCA 08-1 group of amendments to the DCA 08-2 group that is to be adopted subsequent to adoption of the Public*

Educational Facilities Element. We will develop responses to each of the Objections regarding Landmar and include them in the DCA 08-2 adoption packet.

4. Objection related to the proposed LandMar amendment related to long range transportation impacts: The proposed plan amendment is not consistent with and does not further the following goals and policies of the State Comprehensive Plan [Section 187.201, F.S.]:

- (15) Land use, Goal (a) and Policies (b)1;
- (17) Public Facilities, Goal (a) and Policies (b)1 and 7;
- (19) Transportation, Goal (a) and Policies (b)3, 7, 9, 12, and 13; and
- (25) Plan Implementation, Goal (a) and Policy (b) 7.

Recommendation: Revise the amendments, as necessary, to be consistent with the above referenced goal and policy of the State Comprehensive Plan. Specific recommendations can be found following the objection cited previously in this report

City Response: *The referenced sub-sections of F.S. 187.201, in addition to the previously shown sub-sections on Land Use and Plan Implementation, include:*

17) Public Facilities.

(a) Goal.--Florida shall protect the substantial investments in public facilities that already exist and shall plan for and finance new facilities to serve residents in a timely, orderly, and efficient manner.

(b) Policies.--

1. Provide incentives for developing land in a way that maximizes the uses of existing public facilities.

7. Encourage the development, use, and coordination of capital improvement plans by all levels of government.

19) Transportation.

(a) Goal.--Florida shall direct future transportation improvements to aid in the management of growth and shall have a state transportation system that integrates highway, air, mass transit, and other transportation modes.

(b) Policies.--

3. Promote a comprehensive transportation planning process which coordinates state, regional, and local transportation plans.

7. Develop a revenue base for transportation which is consistent with the goals and policies of this plan.

9. Ensure that the transportation system provides Florida's citizens and visitors with timely and efficient access to services, jobs, markets, and attractions.

12. Avoid transportation improvements which encourage or subsidize increased development in coastal high-hazard areas or in identified environmentally sensitive areas such as wetlands, floodways, or productive marine areas.

13. Coordinate transportation improvements with state, local, and regional plans.

*As explained in our Response to Objection 4 under I. **CONSISTENCY WITH CHAPTER 163, F.S. and RULE 9J-5, F.A.C. - A. Future Land Use Map**, we are moving the Landmar comprehensive plan amendment (Ordinance 070447) from the DCA 08-1 group of amendments to the DCA 08-2 group that is to be adopted subsequent to adoption of the Public Educational*

Facilities Element. We will develop responses to each of the Objections regarding Landmar and include them in the DCA 08-2 adoption packet.

B. Future Land Use Element

1. Objection related to the proposed Business Institutional future land use category (Ordinance 071154): The proposed plan amendment is not consistent with and does not further the following goal and policy of the State Comprehensive Plan [Section 187.201, F.S.]:

(25) Plan Implementation, Goal (a) and Policy (b)7.

Recommendation: Revise the amendments, as necessary, to be consistent with the above referenced goals and policies of the State Comprehensive Plan. Specific recommendations can be found following the objection cited previously in this report.

*City Response: The referenced sub-sections of F.S. 187.201 are shown in the Response to Objection 1 regarding the Future Land Use Map. As explained in our Response to Objection 1 under I. **CONSISTENCY WITH CHAPTER 163, F.S. and RULE 9J-5, F.A.C. -B. Future Land Use Element, City Response**, we have addressed this Objection regarding intensity standards by establishing a maximum floor area ratio of 4.0 (added text is double-underlined) in the proposed Business Industrial land use category, as follows:*

- **Business Industrial.** This land use category is primarily intended to identify those areas near the Gainesville Regional Airport appropriate for office, business, commercial and industrial uses. This district is distinguished from other industrial and commercial districts in that it is designed specifically to allow only uses that are compatible with the airport. Intensity will be controlled by adopting land development regulations that establish height limits consistent with the Airport Hazard Zoning Regulations. When not located within an airport zone of influence, this category may be used to designate areas for office, business, commercial and industrial uses, with a maximum height of 5 stories, and a maximum floor area ratio of 4.0. Land development regulation(s) shall specify the type and distribution of uses, design criteria, landscaping, pedestrian and vehicular access.

2. Objection related to proposed Hatchet Creek Policy 4.3.5.d: The proposed plan amendment is not consistent with and does not further the following goals and policies of the State Comprehensive Plan [Section 187.201, F.S.]:

(15) Land use, Goal (a) and Policies (b)2; and
(25) Plan Implementation, Goal (a) and Policy (b) 7.

Recommendation: Revise the amendments, as necessary, to be consistent with the above referenced goal and policy of the State Comprehensive Plan. Specific recommendations can be found following the objection cited previously in this report.

City Response: The referenced sub-sections of F.S. 187.201 are shown in previous Responses. We have addressed this Objection by deleting the sentence regarding future amendment of the

Airport Noise Zone, and by including the date, author and source of the Airport Noise Zone map. Proposed, revised Policy 4.3.5 d. follows, with additions double-underlined and deletions stricken.

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:

...

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-" which consists of the map entitled "Airport Noise Zone – Gainesville Regional Airport", dated March 1999 and prepared by the City of Gainesville's Department of Community Development. The source of the map is CH2M Hill, Drawing 4, Gainesville Regional Airport Master Plan, Prepared under the Airport and Airway Improvement Act of 1982, as stated on the map. 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.

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ORDINANCE NO. _____
0-06-122

An ordinance of the City of Gainesville, Florida, amending the Future Land Use Element of the City of Gainesville 2000-2010 Comprehensive Plan by adding a new land use category, "Business Industrial," to policy 4.1.1, specifying conditions and limitations; providing directions to the city manager; providing a severability clause; providing a repealing clause; and providing an effective date.

WHEREAS, the City Plan Board authorized the publication of notice of a Public Hearing that the text of the City of Gainesville 2000-2010 Comprehensive Plan be amended; and

WHEREAS, notice was given and publication made as required by law and a Public Hearing was then held by the City Plan Board on November 15, 2007; and

WHEREAS, pursuant to law, an advertisement was placed in a newspaper of general circulation notifying the public of this proposed ordinance and of the Public Hearing to be held at the transmittal stage, in the City Commission Auditorium, City Hall, City of Gainesville, at least 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 was placed in the aforesaid newspaper notifying the public of the second Public Hearing to be held at the adoption stage at least 5 days after the day the second advertisement was published; and

WHEREAS, the two Public Hearings were held pursuant to the published notices described at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard; and

WHEREAS, prior to adoption of this ordinance, the City Commission has considered the

1 the comments, recommendation and objections, if any, of the State Land Planning Agency.

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

4 **Section 1.** Policy 4.1.1 of the Future Land Use Element of the City of Gainesville 2000-
5 2010 Comprehensive Plan, is amended by adding the "Business Industrial" land use category, to
6 read as follows:

7 **Business Industrial.** This land use category is primarily intended to identify those areas near
8 the Gainesville Regional Airport appropriate for office, business, commercial and industrial
9 uses. This district is distinguished from other industrial and commercial districts in that it is
10 designed specifically to allow only uses that are compatible with the airport. Intensity will be
11 controlled by adopting land development regulations that establish height limits consistent
12 with the Airport Hazard Zoning Regulations. When not located within an airport zone of
13 influence, this category may be used to designate areas for office, business, commercial and
14 industrial uses, with a maximum height of 5 stories, and a maximum floor area ratio of 4.0.
15 Land development regulation(s) shall specify the type and distribution of uses, design criteria,
16 landscaping, pedestrian and vehicular access.

17
18 **Section 2.** The City Manager is authorized and directed to make the necessary changes in
19 maps and other data in the City of Gainesville 2000-2010 Comprehensive Plan, or element, or
20 portion thereof in order to fully implement this ordinance.

21 **Section 3.** It is the intent of the City Commission that this amended element will become
22 part of the City of Gainesville 2000-2010 Comprehensive Plan.

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

28 **Section 5.** All ordinances or parts of ordinances in conflict herewith are to the extent of

1 such conflict hereby repealed.

2 **Section 6.** This ordinance shall become effective immediately upon final adoption;
3 however, the effective date of this plan amendment shall be the date a final order is issued by the
4 Department of Community Affairs finding the amendment to be in compliance in accordance with
5 Chapter 163.3184, F.S.; or the date a final order is issued by the Administration Commission
6 finding the amendment to be in compliance in accordance with Chapter 163.3184, F.S.

8 **PASSED AND ADOPTED** this ____ day of _____, 2008.

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PEGEEN HANRAHAN
MAYOR

ATTEST:

Approved as to form and legality

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

20 This Ordinance passed on first reading this 12th day of May, 2008.

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