

TO: Mayor and City Commission **DATE:** April 16, 2008
FROM: Planning and Development Services
SUBJECT: Hatchet Creek Development Land Use Change; Petition 23LUC-07PB.
(070210)

On October 29, 2007 at a City Commission Special Meeting, the City Commission approved Petition 23LUC-07PB with conditions. On March 24, 2008 the City Commission heard a request from the applicant for a special meeting to review the City Commission approved conditions. The City Commission approved the request and scheduled a special meeting on the petition for April 16, 2008. With the request for the special meeting the applicant submitted several revised conditions for review. The applicant's proposed modifications are very similar to the applicant's original request. City staff and the City Attorney's Office reviewed the modified conditions as presented by the applicant and developed the attached matrix as a response and recommendation to the City Commission.

After the review City staff concluded that staff could only support modifications to conditions E, H and Y. Staff could also support changes to condition Z-5 with additional supporting analysis addressing traffic impacts and public school capacity.

Attached you will find the matrix as Exhibit 1 with attachments.

- ♦ Attachment 1 is the meeting minutes of October 29, 2007.
- ♦ Attachment 2 is the e-mail from Robert Simensky requesting a special meeting.
- ♦ Attachment 3 is the Hatchet Creek Planned Use District Map.
- ♦ Attachment 4 is the response from staff regarding Assisted Living Facility Beds.
- ♦ Attachment 5 is the Airport Noise Zone Map.
- ♦ Attachment 6 is the professional consultant's opinion regarding the Hatchet Creek land use.

<p>Petition as Approved by City Commission October 29, 2007 ATTACHMENT 1</p>	<p>Proposed Petition Modifications submitted by Petitioner on March 7, 2008 ATTACHMENT 2</p>	<p>Staff Analysis of Proposed Modifications</p>
<p>Change the existing Single Family and Recreational land use categories to Planned Use District (approximately 299 acres). Do not change the existing Industrial land use category (approximately 199 acres). ATTACHMENT 3</p>	<p>Change the land use on the entire site (approximately 498 acres) to Planned Use District.</p>	<p>This is the same proposal that was heard by the City Commission in October. Staff supports the City Commission decision and does not recommend changing the land use of the approximately 199 acres that have Industrial land use. Refer to staff analysis in Condition A-2. ATTACHMENT 3</p>
<p>Condition A-1 The planned use district is a maximum of 1,199 residential units, (see note below) Assisted Living Facility (ALF) beds, and a maximum of 200,000 square feet of non-residential uses (to include a maximum of 100,000 square feet of retail space and a maximum of 100,000 square feet of office space). 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, concurrency and airport floodplain requirements, wellfield protection, and surface water regulations, concurrency and airport hazard zoning regulations.</p> <p>NOTE: Per the City Commission approved motion on October 29, 2007, the Petitioner was to supply further data and analysis (certificate of need process) to justify the number of ALF beds requested. After review and analysis by staff, the City Commission would determine the appropriate number of beds, if any.</p>	<p>Condition A-1 The planned use district is a maximum of <u>1,500</u> 4,499 residential units, <u>400</u> 500 ALF (Assisted Living Facility) beds, and a maximum of 200,000 square feet of non-residential uses (to include a maximum of 100,000 square feet of retail space and a maximum of 100,000 square feet of office space). The actual amount of residential units and nonresidential 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.</p>	<p>The applicant has not provided data and analysis that would justify a change in the staff-recommended and City Commission-approved maximum of 1,199 residential units. Considering development restrictions and constraints including but not limited to wetlands and surface water regulations, wellfield protection, floodplain requirements, concurrency and airport hazard zoning regulations, and Development of Regional Impact thresholds, 1,199 residential units is the maximum number that can be recommended by staff. 300 ALF beds is the maximum number that can be supported by staff. This exceeds the total number (290) of ALF beds that are currently licensed within the City of Gainesville. Assuming a doubling of the age 65+ population over the next 20 years with an accompanying doubling in</p>

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<p>Condition A-2 No residential units, including ALF beds, shall be allowed within the Airport Noise Zone.</p>	<p>Condition A-2 No residential units including ALF beds shall be allowed within the <u>65+ DNL noise contour east of Ironwood Golf Course's easternmost boundary line (S 29°13'27" W 907.08' (L) S 29°14'38" W 907.02 (M); S 21°26'37" W 730.15' (L) N 21°27'18" E 730.34' (M); S 07°59'20" W 777.35' (L) N 07°59'52" E 777.45' (M); L63 M62; L61 M61; S 23°36'50" W 740.48' (L) S 23°37'31" W 740.44' (M); S 02°33'55" W 745.29' (L) S 02°34'43" W 745.20' (M))</u>Airport-Noise-Zone.</p>	<p>demand for ALF beds, the 300-bed limit would allow the applicant to potentially meet all of the assumed future demand for ALF beds within the City of Gainesville. ATTACHMENT 4</p>
<p>Condition A-3 For any non-residential development within the Airport Noise Zone, the only allowable uses shall be those permitted uses identified in the PD zoning ordinance and consistent with Appendix F, Airport Hazard Zoning Regulations of Chapter 30, Gainesville Code of Ordinances. 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 Airport Noise Subzone within which the use is located.</p>	<p>Condition A-3 For any non-residential development within the <u>65+ DNL noise contour east of Ironwood Golf Course's easternmost boundary line (S 29°13'27" W 907.08' (L) S 29°14'38" W 907.02 (M); S 21°26'37" W 730.15' (L) N 21°27'18" E 730.34' (M); S 07°59'20" W 777.35' (L) N 07°59'52" E 777.45' (M); L63 M62; L61 M61; S 23°36'50" W 740.48' (L) S 23°37'31" W 740.44' (M); S 02°33'55" W 745.29' (L) S 02°34'43" W 745.20' (M))</u>Airport-Noise-Zone.</p>	<p>Staff does not support the modifications to Conditions A-2, A-3 & A-4 for the following reasons: As to the "line of regulation" – The City's Airport Hazard Zoning Regulations regulate uses and development based on the adopted "Airport Noise Zone" (consisting of the 65, 70 and 75 Ldn noise contours), not based on the eastern property boundary of the Ironwood Golf Course. The petitioner's proposal would allow residential and other development within the Airport Noise Zone west of the easternmost Ironwood property boundary. ATTACHMENT 5. Per the expert testimony and opinion of the City's airport noise consultant, Ted Baldwin, and guidance from the FAA and a plain reading of the City's Airport Hazard Zoning Regulations and the adopted Part 150 study, residential uses are not compatible uses within the 65, 70 and 75 Ldn noise contours.</p>

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<p>Condition A-4 The area, uses, intensity and density of the Planned Use District shall be restricted as follows: (1) Zone: Within the Airport Noise Zone Uses: No residential development, including ALF beds, is allowed. Accessory uses (e.g., recreational facilities) to residential development are allowed. Non-residential development is allowed in accordance with the permitted uses identified in the PD zoning ordinance and consistent with Appendix F - Airport Hazard Zoning Regulations, Chapter 30, Gainesville Code of Ordinances. Density: No Residential Development, including ALF Beds Intensity: Maximum of 200,000 sq. ft., of non-residential uses (to include a maximum of 100,000 square feet of retail space and a maximum of 100,000 square feet of office space) to be allowed within entire planned use district. (2) Zone: Outside of the Airport Noise Zone (A) Uses: Residential Density: Maximum of 1,199 units, plus (see note below) ALF beds. (B) Uses: Non Residential Intensity: Maximum square footage allowed is</p>	<p>accordance with Table 1 of Appendix A to 14 C.F.R. of Part 150) with the Airport Noise Subzone within which the use is located. Condition A-4 The area, uses, intensity and density of the Planned Use District shall be restricted as follows: (1) Zone: Within the 65+ DNL noise contour east of Ironwood Golf Course's easternmost boundary line (S 29°13'27" W 907.08' (L) S 29°14'38" W 907.02 (M); S 21°26'37"W 730.15' (L) N 21°27'18" E 730.34' (M); S 07°59'20" W 777.35' (L) N 07°59'52" E 777.45' (M); L63 M62: L61 M61: S 23°36'50" W 740.48' (L) S 23°37'31" W 740.44' (M); S 02°33'55" W 745.29' (L) S 02°34'43" W 745.20' (M); Airport Noise Zone. Uses: No residential development including ALF beds is allowed. Accessory uses (e.g., recreational facilities) to residential development are permitted. Non-residential development is allowed in accordance with the permitted uses identified in the PD zoning ordinance and consistent with Appendix F - Airport Hazard Zoning Regulations, Chapter 30, Gainesville Code of Ordinances. Density: No residential development, including ALF beds. Intensity: Maximum of 200,000 square feet of non-residential uses (to include a maximum of 100,000 square feet of retail space and a maximum of 100,000 square feet of office space) to be allowed within entire planned use district. (2) Zone: Outside of the 65+ DNL noise contour east of Ironwood Golf Course's easternmost</p>	<p>ATTACHMENT 6. Staff supports the condition as approved by the City Commission because it references the appropriate line of regulation, the "Airport Noise Zone," and it allows for the appropriate flexibility over time. In the event a new "Airport Noise Zone" is adopted by the City Commission in the future, it is the "Airport Noise Zone" in effect at the time of development that will determine where residential and other development is allowed. As to the maximum number of residential units and ALF beds: refer to staff analysis of Condition A-1</p>

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<p>(3) the total square footage not used "Within Airport Noise Zone" above</p> <p>Totals: Density: Maximum of 1,199 dwelling units, plus (see note below) ALF beds. Intensity: Maximum of 200,000 sq. ft., of non-residential uses (to include a maximum of 100,000 sq. ft. of retail space and a maximum of 100,000 square feet of office space) to be allowed within the entire planned use district.</p> <p>NOTE: Per the City Commission approved motion on October 29, 2007, the Petitioner was to supply further data and analysis (certificate of need process) to justify the number of ALF beds requested. After review and analysis by staff, the City Commission would determine the appropriate number of beds, if any.</p>	<p>boundary line (S 29°13'27" W 907.08' (L) S 29°14'38" W 907.02 (M); S 21°26'37" W 730.15' (L) N 21°27'18" E 730.34' (M); S 07°59'20" W 777.35' (L) N 07°59'52" E 777.45' (M); L63 M62; L61 M61; S 23°36'50" W 740.48' (L) S 23°37'31" W 740.44' (M); S 02°33'55" W 745.29' (L) S 02°34'43" W 745.20' (M)) and west of this boundary line Airport Noise Zone.</p> <p>Uses:</p> <p>(A) Residential Density: Maximum of <u>1,500-1,499 dwelling units</u>, plus <u>400</u> ALF beds.</p> <p>(B) Non-residential Intensity: Maximum square footage allowed is the total square footage not used in the 65+ DNL noise contour east of Ironwood Golf Course's easternmost boundary line (S 29°13'27" W 907.08' (L) S 29°14'38" W 907.02 (M); S 21°26'37" W 730.15' (L) N 21°27'18" E 730.34' (M); S 07°59'20" W 777.35' (L) N 07°59'52" E 777.45' (M); L63 M62; L61 M61; S 23°36'50" W 740.48' (L) S 23°37'31" W 740.44' (M); S 02°33'55" W 745.29' (L) S 02°34'43" W 745.20' (M)) "Within Airport Noise Zone"</p> <p>Totals: Density: Maximum of <u>1,500-1,499</u> dwelling units, plus <u>400</u> ALF beds; Intensity: Maximum of 200,000 square feet of non-residential uses (to include a maximum of 100,000 square feet of retail space and a maximum of 100,000 square feet of office space) to be allowed within the entire planned use district.</p>	

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<p>Condition B Interior Connectivity: All non-residential areas in the planned use district shall be connected to the residential uses in the planned use district by an interior roadway system and/or a pedestrian/bicycle/golf cart system. All pedestrian sidewalk systems in the planned use district shall comply with the Florida Accessibility Code for Building Construction requirements.</p>	<p>Condition B Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>
<p>Condition C A PD (planned development) zoning ordinance consistent with the planned use district 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 planned use district 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 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.</p>	<p>Condition C Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>
<p>Condition D 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</p>	<p>Condition D Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>

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<p>PD (planned development) zoning. Informal 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.</p> <p>Condition E All direct impacts to jurisdictional wetlands and wetland buffers shall be prohibited, with the exception of crossings required for the internal road network and for egress and ingress into the planned use district. Where such crossings cannot be avoided, impacts to the wetland resources shall be minimized to the extent practicable. All unavoidable, direct wetland impacts shall be mitigated in accord with applicable City of Gainesville and water management district requirements. As part of the overall wetland mitigation requirements for any unavoidable, direct wetland impacts, on-site mitigation shall be the first option. 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.</p>	<p>Condition E All direct impacts to jurisdictional wetlands will be mitigated in accordance with the methodology outlined in Chapter 62-345 Uniform Mitigation Assessment Method (UMAM), F.A.C. In addition, the mitigation plan will ensure that on-site creation of wetlands will result in no net loss of wetland acreage on-site (within the boundaries of the following tax parcels: 08160-001-000, 08160-004-000, 08160-001-001, 08160-004-001, 08160-002-000, 08197-006-000, 08169-000-000, 08171 -000-000), and wetland buffers shall be prohibited, with the exception of crossings required for the internal road network and for egress and ingress into the planned use district. Where such crossings cannot be avoided, impacts to the wetland resources shall be minimized to the extent practicable. All unavoidable, direct wetland impacts shall be mitigated in accord with applicable City of Gainesville and water management district requirements. As part of the overall wetland mitigation requirements for any unavoidable, direct wetland impacts, on-site mitigation shall be the first option. 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 water management district.</p>	<p>Staff does not support the petitioner's proposed modifications for two reasons: (1) The proposed condition seems to assume that any direct wetland impacts will be allowed, and (2) it defines the proposed area of mitigation as the entire 500 acres owned by the petitioner, not as the approximately 300-acre planned use district approved by the City Commission on October 29, 2007.</p> <p>Staff can support allowing mitigation within the planned use district for unavoidable wetland impacts in accordance with Sub-section 30-302.1 of the Land Development Code. Staff's recommended language modifies the City Commission's approved condition: "All direct impacts to jurisdictional wetlands, and wetland buffers, and regulated creeks shall be prohibited avoided, with the exception of crossings required for the internal road network and for egress and ingress into the planned use district. Where such crossings cannot be</p>

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<p>Condition F 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 owner/developer and then provided for in the PD zoning ordinance.</p> <p>Condition G Protection of the State-listed animal species, Gopher tortoise (<i>Gopherus polyphemus</i>) 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</p>		<p>avoided, impacts to the wetland resources shall be minimized 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. As part of the overall wetland mitigation requirements for any unavoidable, direct wetland impacts, on-site mitigation shall be the first option. There shall be no net loss of wetland acreage and function within the planned use district. 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.</p>
<p>Condition F 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 owner/developer and then provided for in the PD zoning ordinance.</p> <p>Condition G Protection of the State-listed animal species, Gopher tortoise (<i>Gopherus polyphemus</i>) 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</p>	<p>Condition F Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>
<p>Condition G Protection of the State-listed animal species, Gopher tortoise (<i>Gopherus polyphemus</i>) 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</p>	<p>Condition G Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>

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<p>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 PD 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.</p>		
<p>Condition H 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 PD zoning. As part of this report, the highest-quality uplands shall be delineated and any development within these high-quality areas shall be restricted. In particular, the owner/developer shall preserve and restore the area identified as sandhill (FLUCCS code 412) in the northeastern part of the site. Restoration of any upland habitat on this site may require prescribed burning.</p>	<p>Condition H 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 any development within these high-quality areas shall be restricted. In particular, the owner/developer shall preserve and restore the area identified as sandhill (FLUCCS code 412) in the northeastern part of the site. Restoration of any upland habitat on this site may require prescribed burning.</p>	<p>These proposed modifications are acceptable to staff. The original condition presumes the results of an environmental features report that has not been done. The proposed condition still requires this report and restricts development in high-quality uplands.</p>
<p>Condition I The application for PD zoning shall include requirements for the use of native vegetation landscaping and for the removal of invasive trees and shrubs.</p>	<p>Condition I Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>
<p>Condition J A master stormwater management plan for the entire planned use district shall be prepared by the</p>	<p>Condition J Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>

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<p>owner/developer. The plan shall include provisions for protecting the water quality of Little Hatchet Creek, particularly with respect to stormwater runoff from any future development within the planned use district. A conceptual master stormwater management plan application shall be submitted at the time of application for PD zoning. The subsequent master stormwater management plan must be approved by the City Manager or designee prior to final development plan approval. The master stormwater management plan for the project shall be modified for undeveloped phases in order to comply with the statewide water quality rule once it is adopted. The water quality leaving the site shall be addressed in the PD zoning ordinance.</p>		
<p>Condition K Buffer and setback requirements for the wetlands and creeks in the planned use district 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 planned development district zoning. The buffer and setback requirements shall be specified in the PD zoning ordinance.</p>	<p>Condition K Buffer and setback requirements for the wetlands and creeks in the planned use district 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 planned development district zoning. The buffer and setback requirements shall be specified in the PD zoning ordinance. <u>Regulated creeks on the site shall be limited to the areas depicted on the attached map.</u></p>	<p>Staff does not support this proposed modification. The regulated creeks map referred to in Sub-section 30-301(a) (1) of the Land Development Code, cannot be modified by the petitioner.</p>
<p>Condition L Buffer requirements pertaining to adjacent uses (including the municipal golf course) will be provided by the owner/developer in the application</p>	<p>Condition L Buffer requirements pertaining to adjacent uses (including the municipal golf course) will be <u>proposed</u> provided by the owner/developer in the</p>	<p>Staff does not support the petitioner's proposed modifications. Staff recommends that the buffer be</p>

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<p>for PD zoning and shall be included in the PD zoning ordinance. These buffers shall be designed to minimize the impact on and adequately buffer the adjacent uses.</p>	<p>application for planned development district zoning and shall be included in the PD zoning ordinance. These buffers shall be designed to minimize the impact on and adequately buffer the adjacent uses.</p>	<p>provided (rather than proposed) in the future PD zoning ordinance, and notes that minimizing impact on adjacent uses is a basic function of buffers. Staff supports the condition that was approved by the City Commission.</p>
<p>Condition M The planned use district shall not vest the development for concurrency. The owner/developer is required to apply for and meet concurrency management certification requirements, including all relevant policies in the Concurrency Management Element, at the time of application for PD zoning. Transportation modifications which are required due to traffic safety and/or operating conditions, and which are unrelated to transportation concurrency shall be provided by the owner/developer.</p>	<p>Condition M Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>
<p>Condition N 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 the Institute of Transportation Engineers.</p>	<p>Condition N Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>
<p>Condition O Sidewalks shall be provided on all internal streets. Sidewalk connections shall be made from the internal sidewalk system to the existing and</p>	<p>Condition O Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>

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<p>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.</p>		
<p><u>Condition P</u> The planned development 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.</p>	<p><u>Condition P</u> Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>
<p><u>Condition Q</u> 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 planned use district.</p>	<p><u>Condition Q</u> 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 planned use district. Drive-through facilities shall be determined in the PD zoning ordinance.</p>	<p>Staff does not support the proposed modifications. NW 39th Avenue is part of the Strategic Intermodal System (SIS), and a level of service C must be maintained by local governments on these types of facilities. NW 53rd Avenue is a 2-lane, high speed arterial. Direct access off these roads to drive-through facilities (auto-oriented uses) in the Hatchet Creek PUD poses a traffic congestion and safety issue. It is vital that drive-through queue backups spilling out from the development onto major roadways be avoided. This is an important PUD condition so that the developer of this property can design land uses with this concept so that drive-through facilities are accessed from the internal PUD</p>

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		<p>road system. In addition, the limitation on the number of drive-through facilities ensures a new development that meets the City's Comprehensive Plan policies concerning mixed-use developments, urban design and transportation mobility.</p> <p>The proposed modifications are inconsistent with Future Land Use Element Policy 1.4.4: "In mixed-use zoning districts, the City should prohibit or restrict land uses that discourage pedestrian activity and residential use, including car washes, motels (hotels are acceptable), storage facilities, auto dealerships, drive-throughs, warehouses, plasma centers, and street-level parking lots." They also are inconsistent with: with Urban Design Element Objective 1.3: "Any additions or changes to the existing city street network pattern shall be designed to provide interconnected patterns that promote effective circulation of car, transit, bicycle, and foot traffic, and to take some of the pressure off the major arterial streets in the city as the city grows."</p> <p>The limitations established by the approved condition will moderate</p>

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<p>Condition R 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.</p>	<p>Condition R Petitioner accepts the City Commission approved condition.</p>	<p>the impact of these major traffic generators on the adjacent roadways. Staff supports the condition approved by the City Commission.</p>
<p>Condition S 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 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 owner/developer shall interconnect the access points on N.E. 53rd</p>	<p>Condition S A maximum of two access points shall be allowed along NE 53** 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 planned development district zoning. 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 planned use district on NE 53** Avenue, the owner/developer shall interconnect the two</p>	<p>Staff does not support the proposed modifications. The management of access to external roadways and the provision of internal connectivity are fundamental transportation factors that are appropriately and fairly addressed by the condition approved by the City Commission.</p>

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<p>Avenue with the internal road system in the Hatchet Creek development.</p>	<p>access points on NE 53rd Avenue with the internal road system in the Hatchet Creek development. Access points on NE 53rd Avenue and connectivity to areas south of Little Hatchet Creek shall be determined in the PD zoning ordinance.</p>	
<p><u>Condition I</u> 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 PD zoning application. Any proposed access point is subject to City of Gainesville approval at the PD zoning stage, and shall be specified in the PD zoning ordinance.</p>	<p><u>Condition I</u> Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>
<p><u>Condition U</u> 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.</p>	<p><u>Condition U</u> Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>
<p><u>Condition V</u> 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.</p>	<p><u>Condition V</u> Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>
<p><u>Condition W</u> Prior to the second reading of the planned use</p>	<p><u>Condition W</u> Petitioner accepts the City Commission approved</p>	<p>N/A</p>

Petition as Approved by City Commission October 29, 2007 ATTACHMENT 1	Proposed Petition Modifications submitted by Petitioner on March 7, 2008 ATTACHMENT 2	Staff Analysis of Proposed Modifications
<p>district land use amendment ordinance, the 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 developer. If sufficient funds are not available for the required transportation modifications, the developer shall be required to limit the development program associated with the planned use district to that which would not degrade the transportation level of service (LOS) below the adopted LOS for impacted roads.</p> <p>Condition X 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 developer shall be part of the traffic methodology letter that will be signed with the City of Gainesville. 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</p>	<p>condition.</p> <p>Condition X 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 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</p>	<p>Staff does not support the petitioner's proposed modifications. The cost of safety and operational improvements cannot be counted towards proportionate fair share (Article III, Division 3, Proportionate Fair-Share, Land Development Code) for transportation concurrency. Staff supports the condition as approved by the City Commission.</p>

<p>Petition as Approved by City Commission October 29, 2007 ATTACHMENT 1</p>	<p>Proposed Petition Modifications submitted by Petitioner on March 7, 2008 ATTACHMENT 2</p>	<p>Staff Analysis of Proposed Modifications</p>
<p>proportionate fair-share contribution for transportation concurrency.</p> <p>Condition Y Prior to the second reading of the PD zoning ordinance, the developer shall sign a binding letter of agreement with Gainesville Regional Utilities' GRU.com to provide for the installation of fiber optic cable consistent with the City's Traffic Management System (TMS) standards, which shall run along NE 39th Avenue from NE 15th Street to Waldo Road.</p>	<p>share contribution for transportation concurrency.</p> <p>Condition Y Prior to the second reading of the PD zoning ordinance, the developer shall sign a binding letter of agreement with Gainesville Regional Utilities' GRU.com to provide for the installation of fiber optic cable consistent with the City's Traffic Management System (TMS) standards, which shall run along NE 39th Avenue from NE 15th Street to Waldo Road. 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.</p> <p>Condition Z-1 Petitioner accepts the City Commission approved condition.</p>	<p>The proposed modifications are acceptable to staff because the funded Traffic Management System (TMS) project will provide for the fiber connection between NE 15th Street and Waldo Road. The development will be responsible for tying any new signals into the TMS.</p>
<p>Condition Z-1 The following shall be executed and delivered to the City prior to approval of a development plan, or 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 Regional Airport 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 planned use district and/or by the required development (PD) district 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</p>	<p>Condition Z-1 Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>

Petition as Approved by City Commission October 29, 2007 ATTACHMENT 1	Proposed Petition Modifications submitted by Petitioner on March 7, 2008 ATTACHMENT 2	Staff Analysis of Proposed Modifications
<p>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.</p>		
<p>Condition Z-2 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.</p>	<p>Condition Z-2 Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>
<p>Condition Z-3 The developer shall fund any potable water and/or wastewater capacity improvements that are based on the Hatchet Creek planned use district demands so that the adopted levels of service in the Potable Water/Wastewater Element of the City's Comprehensive Plan are maintained. The developer shall sign a binding letter of agreement with the City to ensure that the funding will be available to make the required improvements.</p>	<p>Condition Z-3 Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>
<p>Condition Z-4 At the PD zoning stage, the Hatchet creek planned use district shall provide design standards for all residential and non-residential uses, and shall be specified in the PD zoning ordinance.</p>	<p>Condition Z-4 Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>
<p>Condition Z-5 All residential development shall be housing designated for persons who are 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,</p>	<p>Condition Z-5 At least 80% of the All residential development shall be housing designated for persons <u>where at least one member of the household is is are 55 years or older</u> in accordance with the Federal Fair Housing Act (Title 42, Chapter 45, Subchapter 1, U.S.C.), the Florida Fair</p>	<p>Having a mix of age groups in the development is desirable; however, staff does not support the petitioner's modifications without reviewing an updated traffic analysis</p>

Petition as Approved by City Commission October 29, 2007 ATTACHMENT 1	Proposed Petition Modifications submitted by Petitioner on March 7, 2008 ATTACHMENT 2	Staff Analysis of Proposed Modifications
<p>F.S. and all related federal and state regulations. The restriction on the housing for persons of 55 years or older 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.</p>	<p>Housing Act (Chapter 760, Part II, F.S.) and all related federal and state regulations. These restrictions on the housing for persons of 55 years or older 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.</p>	<p>to determine how the revised residential distribution will impact traffic. Additionally, an analysis of the proposed modifications on public school capacity needs to be provided for staff review.</p>
<p>Condition Z-6 This Planned Use District land use ordinance 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.</p>	<p>Condition Z-6 Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>
<p>Condition Z-7 This shall not be a gated community, and security features shall be addressed in the PD zoning application and ordinance.</p>	<p>Condition Z-7 Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>
<p>Condition Z-8 The Planned Use District may include accessory uses customarily and clearly incidental to an active adult community. Such accessory uses shall be for the exclusive use of the residents of the Planned Use District and their guests. Such accessory uses shall be specified in the PD zoning ordinance.</p>	<p>Condition Z-8 Petitioner accepts the City Commission approved condition.</p>	<p>N/A</p>

City of Gainesville

*City Hall
200 East University Avenue
Gainesville, Florida 32601*



Meeting Minutes

Monday, October 29, 2007

3:00 PM

City Commission Special Meeting

City Hall Auditorium

City Commission

***Mayor Pegeen Hanrahan (At Large)
Mayor-Commissioner Pro Tem Rick Bryant (At Large)
Commissioner Jeanna Mastrodicasa (At Large)
Commissioner Scherwin Henry (District 1)
Commissioner Ed Braddy (District 2)
Commissioner Jack Donovan (District 3)
Commissioner Craig Lowe (District 4)***

Persons with disabilities who require assistance to participate in this meeting are requested to notify the Office of Equal Opportunity at 334-5051 or call the TDD phone line at 334-2069 at least two business days in advance.

CALL TO ORDER - 3:05 PM

ROLL CALL

Present: Edward Braddy, Pegeen Hanrahan, Rick Bryant, Craig Lowe, Jack Donovan, Jeanna Mastrodicasa and Scherwin Henry

ADOPTION OF THE AGENDA

Commissioner Bryant moved and Commissioner Lowe seconded to adopt the agenda. (VOTE: 5-0, Commissioners Braddy and Donovan - Absent, MOTION CARRIED)

NOTE: Commissioner Donovan entered the meeting room at 3:06 PM.

NOTE: Commissioner Braddy entered the meeting room at approximately 3:20 PM.

PLAN BOARD PETITIONS

070210. Hatchet Creek Planned Use District (B)

Petition 23LUC-07 PB. Ronald A. Carpenter, agent for East Gainesville Development Partners, LLC. Amend the City of Gainesville 2000-2010 Future Land Use Map from SF (Single-Family, up to 8 units per acre), IND (Industrial), and REC (Recreation) to PUD (Planned Use District to allow up to 1,500 dwelling units, 500-unit adult living facility, and up to 200,000 square feet of non-residential uses, including outdoor storage facilities. Located at 2100 Northeast 39th Avenue, adjacent to the Ironwood Golf Course.

STAFF PRESENTATION: Assistant City Attorney Nicolle Smith, Chief of Comprehensive Planning Dean Mimms, Public Works Environmental Coordinator Mark Garland, Public Works Director Teresa Scott, Senior Planner Onelia Lazzari and Planning Manager Ralph Hilliard gave presentations.

AIRPORT PRESENTATION: Airport Chief Executive Officer (CEO) Alan Penksa gave a presentation.

PETITIONER PRESENTATION: Attorney for the Petitioner Ron Carpenter, Attorney Linda Shelly and Environmental Consultant Pete Wallace gave presentations.

MOTION ON TABLE FROM THE OCTOBER 23, 2007 SPECIAL MEETING: Commissioner Donovan moved and Commissioner Lowe seconded to:

- 1) Accept the Plan Board's recommendation with it's conditions eliminating Condition Q;*
- 2) accept Condition S, as amended: (After the phrase "a maximum of 2 access points shall be allowed along NE 53rd Avenue" that we include this language: "unless additional access points are approved by Alachua County and the City of Gainesville,*

in accordance with the Alachua County Access Management Regulations");

- 3) accept Condition X, as amended: Petitioner requested that the last sentence be eliminated - "The developer shall be responsible for the costs of any new traffic signals that are warranted and the costs shall not be counted toward any required proportionate fair share contribution for transportation concurrency"; staff recommended keeping the language adding the phrase after the word "warranted": "as a result of the development's site related impacts";
- 4) retain Condition Y, but ask staff re-examine it (fiber optic cable);
- 5) request more analysis on whether to include the Assisted Living Facility (impact and what size);
- 6) indicate that we want to get the noise study back most likely before first reading of the ordinance, in order to finalize Conditions A2 and A3 (see A2 & A3 below; and
- 7) have staff pursue with the petitioner the maximum restoration of the natural system's hydrology.

(MOTION TABLED (Oct. 23, 2007) THEN WITHDRAWN)

RECESS: 5:54 PM

RECONVENE: 8:31 PM

MAIN MOTION: Commissioner Donovan moved and Commissioner Lowe seconded to:

- 1). Accept the Plan Board's (original) recommendation with conditions as amended by the City Attorney, and retain Condition Q;
- 2). Accept Condition S, as amended: (After the phrase "a maximum of 2 access points shall be allowed along NE 53rd Avenue" include the language: "unless additional access points are approved by Alachua County and the City of Gainesville, in accordance with the Alachua County Access Management Regulations");
- 3). Accept Condition X, as amended: Petitioner requested that the last sentence be eliminated - "The developer shall be responsible for the costs of any new traffic signals that are warranted and the costs shall not be counted toward any required proportionate fair share contribution for transportation concurrency"; staff recommended keeping the language adding the phrase after the word "warranted": "as a result of the development's site related impacts";
- 4). Retain Condition Y.
- 5). Include the Assisted Living Facility but leave the size undetermined at this time, until there is further analysis (certificate of need process);
- 6). Include conditions under "A" (A1-A4) as modified by the City Plan Board and revised by the City Attorney (recognizing the existing noise contours at this time);
- 7). New Condition Z-8 - Include customary accessory uses exclusively for residents and their guests for an active adult community, (as modified by the City Attorney);
- 8). Condition N as modified by staff adding the language to the phrase: "acceptable to the City"; add "of Gainesville in accordance with the traffic calming practices outlined by the Institute of Transportation Engineers"; and
- 9). Authorize the City Attorney to prepare an ordinance and the Clerk of the Commission to advertise.

(VOTE: 4-3, Commissioners Braddy, Bryant and Henry - No; MOTION CARRIED)

Chair Hanrahan recognized Charles Chestnut, III who spoke to the matter.

CITIZEN COMMENT: Chair Hanrahan recognized the following citizens who spoke to the matter:

- 1. David Gold, City Plan Board*
- 2. Vivian Filer*
- 3. Peter Johnson, Airport Authority*
- 4. Betty Jennings*
- 5. Charles Chestnut, III*
- 6. Cleve Sharpe*
- 7. Barbara Sharpe*
- 8. Evelyn Fox*
- 9. Rob Brinkman*
- 10. Diyonne McGraw*
- 11. Gladys Thompson*
- 12. Walter Willard*
- 13. Tawana Hines*
- 14. Alachua County Commissioner Rodney Long*

ADDITIONAL MOTION:

Commissioner Lowe moved and Commissioner Donovan seconded to direct City staff to work with the applicant, the Airport Authority, and other relevant agencies both public and private, to pursue maximum restoration of the natural system's hydrology for the mutual benefit of all parties.

(MOTION TABLED)

RECOMMENDATION

City Plan Board to City Commission - The City Commission deny Petition 23 LUC-07 PB with respect to changing the existing Industrial land use category to Planned Use District, and approve Petition 23LUC-07 PB with respect to changing the existing Single Family and Recreation land use categories to Planned Use District, subject to conditions as revised by the Plan Board. Plan Board vote 6-1.

Staff to City Commission - The City Commission deny Petition 23 LUC-07 PB with respect to changing the existing Industrial land use category to Planned Use District, and approve Petition 23LUC-07 PB with respect to changing the existing Single Family and Recreation land use categories to Planned Use District, subject to conditions.

Alternative Recommendation -Deny Petition 28LUC-07PB.

Staff to Plan Board - Deny Petition 23 LUC-07 PB with respect to changing the existing Industrial land use category to Planned Use District, and approve Petition 23LUC-07 PB with respect to changing the existing Single Family and Recreation land use categories to Planned Use District, subject to conditions.

A motion was made by Commissioner Donovan, seconded by Commissioner Lowe, that this matter be Approved City Plan Board's Recommendation with Conditions, as amended. The motion carried by the following vote:

Votes: Aye: Jack Donovan, Jeanna Mastrodicasa, Craig Lowe and Pegeen Hanrahan
Nay: Scherwin Henry, Edward Braddy and Rick Bryant

ADJOURNMENT - 11:00 PM

Kurt M. Lannon, Clerk of the Commission

Shalley, Nicole M.

From: Mimms, Dean L.
Sent: Friday, March 07, 2008 5:02 PM
To: Radson, Marion J.; Shalley, Nicole M.
Subject: FW: Proposed Condition Modifications to Hatchet Creek Land Use Amendment
Attachments: PROPOSED CONDITION MODIFICATIONS 3_7_08.doc

FYI, this just arrived ...

Dean

From: Rasimensky@aol.com [mailto:Rasimensky@aol.com]
Sent: Friday, March 07, 2008 4:56 PM
To: Hanrahan, Pegeen
Cc: Braddy, Edward B.; Bryant, Richard J.; Donovan, John F. - Commissioner; Henry, Scherwin L.; Lowe, Craig; Mastrodicasa, Jeanna; Blackburn, Russ D.; Bredfeldt, Erik A.; Hilliard, Ralph W.; Mimms, Dean L.; Scott, Teresa A.; pjohnson@flygainesville.com; allan.penksa@flygainesville.com
Subject: Proposed Condition Modifications to Hatchet Creek Land Use Amendment

Dear Madam Mayor:

Thank you very much for spending so much time with me a couple of weeks ago. I appreciate your efforts to better understand the issues surrounding the Hatchet Creek land use amendment application and your willingness to help resolve certain issues and conditions that will allow this important project to move forward.

I understand that you intend to ask the City Manager to place this matter on the City Commission's agenda for the evening of Monday March 24, 2008. If that is indeed the case, I have attached for your review a list of specific language modifications to the City Attorney Office's most recent draft of the conditions, as was distributed by that office last October. This attached list is the result of a process outlined by the City Manager last December.

Since the end of October, I have had numerous conversations with the Chairman of the Airport Authority Board. Additionally, my advisory team and I have had several discussions and meetings with City Staff and, when requested, have also provided Staff with supplemental information to the best of our ability.

Prior to the City Commission meeting on March 24th, I will submit a presentation I would like to present to the Commission that evening outlining the proposed condition modifications as well as indicating an alternative that can be explored after the land use amendment is transmitted to the State.

As I would expect people who have taken an interest in this land use amendment in the past to be equally interested in the results of the meeting on March 24th, I believe it would be

easier for everyone who would like to attend the meeting to know about what time the matter will be heard. I also expect to have an executive from Fishkind & Associates in Orlando attend the meeting to address qualitative/process questions regarding CDD formation, operation, etc. Additionally, prior to the City Commission meeting on March 24th, I would appreciate a response from Staff indicating which of the attached proposed condition modifications they support and which modifications they will completely defer to the Commission for resolution.

Thank you again for your time and consideration. I remain committed to working constructively with all parties. I look forward to continuing this discussion on March 24th.

Kind regards,

Robert Simensky
East Gainesville Development Partners LLC
P.O. Box 5156
Gainesville, FL 32627-5156
Tel: (352) 222-7714

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**PROPOSED CONDITION MODIFICATIONS
TO
STAFF CONDITIONS AS MODIFIED BY THE CITY ATTORNEY**

In addition to the modifications listed below, the Applicant will have comments on the draft of the ordinance when it is prepared and would appreciate the opportunity to work directly with the City Attorney in advance of the publication of the ordinance, in order to resolve and clarify drafting issues/ambiguities prior to its release. Thank you.

Condition A-1

The planned use district is a maximum of ~~1,500~~^{1,199} residential units, ~~400~~⁵⁰⁰ ALF (Assisted Living Facility) beds, and a maximum of 200,000 square feet of non-residential uses (to include a maximum of 100,000 square feet of retail space and a maximum of 100,000 square feet of office space). 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.

Condition A-2

No residential units including ALF beds shall be allowed within the 65+ DNL noise contour east of Ironwood Golf Course's easternmost boundary line (S 29°13'27" W 907.08' (L) S 29°14'38" W 907.02 (M); S 21°26'37" W 730.15' (L) N 21°27'18" E 730.34' (M); S 07°59'20" W 777.35' (L) N 07°59'52" E 777.45' (M); L63 M62; L61 M61; S 23°36'50" W 740.48' (L) S 23°37'31" W 740.44' (M); S 02°33'55" W 745.29' (L) S 02°34'43" W 745.20' (M)) Airport Noise Zone.

Condition A-3

For any non-residential development within the 65+ DNL noise contour east of Ironwood Golf Course's easternmost boundary line (S 29°13'27" W 907.08' (L) S 29°14'38" W 907.02 (M); S 21°26'37" W 730.15' (L) N 21°27'18" E 730.34' (M); S 07°59'20" W 777.35' (L) N 07°59'52" E 777.45' (M); L63 M62; L61 M61; S 23°36'50" W 740.48' (L) S 23°37'31" W 740.44' (M); S 02°33'55" W 745.29' (L) S 02°34'43" W 745.20' (M)) Airport Noise Zone, the only allowable uses shall be those permitted uses identified in the PD zoning ordinance and consistent with Appendix F, Airport Hazard Zoning Regulations of Chapter 30, Gainesville Code of Ordinances. In addition, such permitted uses shall be compatible or made compatible (in accordance with Table 1 of Appendix A to 14 C.F.R. of Part 150) with the Airport Noise Subzone within which the use is located.

Condition A-4

The area, uses, intensity and density of the Planned Use District shall be restricted as follows:

1) Zone: Within the 65+ DNL noise contour east of Ironwood Golf Course's easternmost boundary line (S 29°13'27" W 907.08' (L) S 29°14'38" W 907.02 (M); S 21°26'37" W

730.15' (L) N 21°27'18" E 730.34' (M); S 07°59'20" W 777.35' (L) N 07°59'52" E 777.45' (M); L63 M62; L61 M61; S 23°36'50" W 740.48' (L) S 23°37'31" W 740.44' (M); S 02°33'55" W 745.29' (L) S 02°34'43" W 745.20' (M) ~~Airport Noise Zone~~

Uses: No residential development including ALF beds is allowed. Accessory uses (e.g., recreational facilities) to residential development are permitted. Non-residential development is allowed in accordance with the permitted uses identified in the PD zoning ordinance and consistent with Appendix F – Airport Hazard Zoning Regulations, Chapter 30, Gainesville Codes of Ordinances.

Density: No residential development, including ALF beds.

Intensity: Maximum of 200,000 square feet of non-residential uses (to include a maximum of 100,000 square feet of retail space and a maximum of 100,000 square feet of office space) to be allowed within entire planned use district.

2) Zone: Outside of the 65+ DNL noise contour east of Ironwood Golf Course's easternmost boundary line (S 29°13'27" W 907.08' (L) S 29°14'38" W 907.02 (M); S 21°26'37" W 730.15' (L) N 21°27'18" E 730.34' (M); S 07°59'20" W 777.35' (L) N 07°59'52" E 777.45' (M); L63 M62; L61 M61; S 23°36'50" W 740.48' (L) S 23°37'31" W 740.44' (M); S 02°33'55" W 745.29' (L) S 02°34'43" W 745.20' (M)) and west of this boundary line ~~Airport Noise Zone~~

Uses: A) Residential
Density: Maximum of 1,500~~1,199~~ dwelling units, plus 400~~500~~ ALF beds

B) Non-residential
Intensity: Maximum square footage allowed is the total square footage not used in the 65+ DNL noise contour east of Ironwood Golf Course's easternmost boundary line (S 29°13'27" W 907.08' (L) S 29°14'38" W 907.02 (M); S 21°26'37" W 730.15' (L) N 21°27'18" E 730.34' (M); S 07°59'20" W 777.35' (L) N 07°59'52" E 777.45' (M); L63 M62; L61 M61; S 23°36'50" W 740.48' (L) S 23°37'31" W 740.44' (M); S 02°33'55" W 745.29' (L) S 02°34'43" W 745.20' (M)) ~~"Within Airport Noise Zone"~~

Totals:

Density: Maximum of 1,500~~1,199~~ dwelling units, plus 400~~500~~ ALF beds.

Intensity: Maximum of 200,000 square feet of non-residential uses (to include a maximum of 100,000 square feet of retail space and a maximum of 100,000 square feet of office space) to be allowed within the entire planned use district.

Condition E

All direct impacts to jurisdictional wetlands will be mitigated in accordance with the methodology outlined in Chapter 62-345 Uniform Mitigation Assessment Method (UMAM), F.A.C. In addition, the mitigation plan will ensure that on-site creation of wetlands will result in no net loss of wetland acreage on-site (within the boundaries of the following tax parcels: 08160-001-000, 08160-004-000, 08160-001-001, 08160-004-001, 08160-002-000, 08197-006-000, 08169-000-000, 08171-000-000). ~~and wetland buffers shall be prohibited, with the exception of crossings required for the internal road network and for egress and ingress into the planned use district. Where such crossings cannot be avoided, impacts to the wetland resources shall be minimized to the extent practicable. All unavoidable, direct wetland impacts shall be mitigated in accord with applicable City of Gainesville and water management district requirements. As part of the overall wetland mitigation requirements for any unavoidable, direct wetland impacts, on-site mitigation shall be the first option. 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 water management district.~~

Condition H

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 any development within these high-quality areas shall be restricted. ~~In particular, the owner/developer shall preserve and restore the area identified as sandhill (FLUCCS code 412) in the northeastern part of the site. Restoration of any upland habitat on this site may require prescribed burning.~~

Condition K

Buffer and setback requirements for the wetlands and creeks in the planned use district 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 planned development district zoning. The buffer and setback requirements shall be specified in the PD zoning ordinance. Regulated creeks on the site shall be limited to the areas depicted on the attached map.

Condition L

Buffer requirements pertaining to adjacent uses (including the municipal golf course) will be ~~proposed~~ provided by the owner/developer in the application for planned development district zoning and shall be included in the PD zoning ordinance. These buffers shall be designed to ~~minimize the impact on and~~ adequately buffer the adjacent uses.

Condition Q

~~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 planned use district. Drive-through facilities shall be determined in the PD zoning ordinance.~~

Condition S

~~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 planned development district zoning. 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 planned use district on NE 53rd Avenue, the owner/developer shall interconnect the two access points on NE 53rd Avenue with the internal road system in the Hatchet Creek development. Access points on NE 53rd Avenue and connectivity to areas south of Little Hatchet Creek shall be determined in the PD zoning ordinance.~~

Condition X

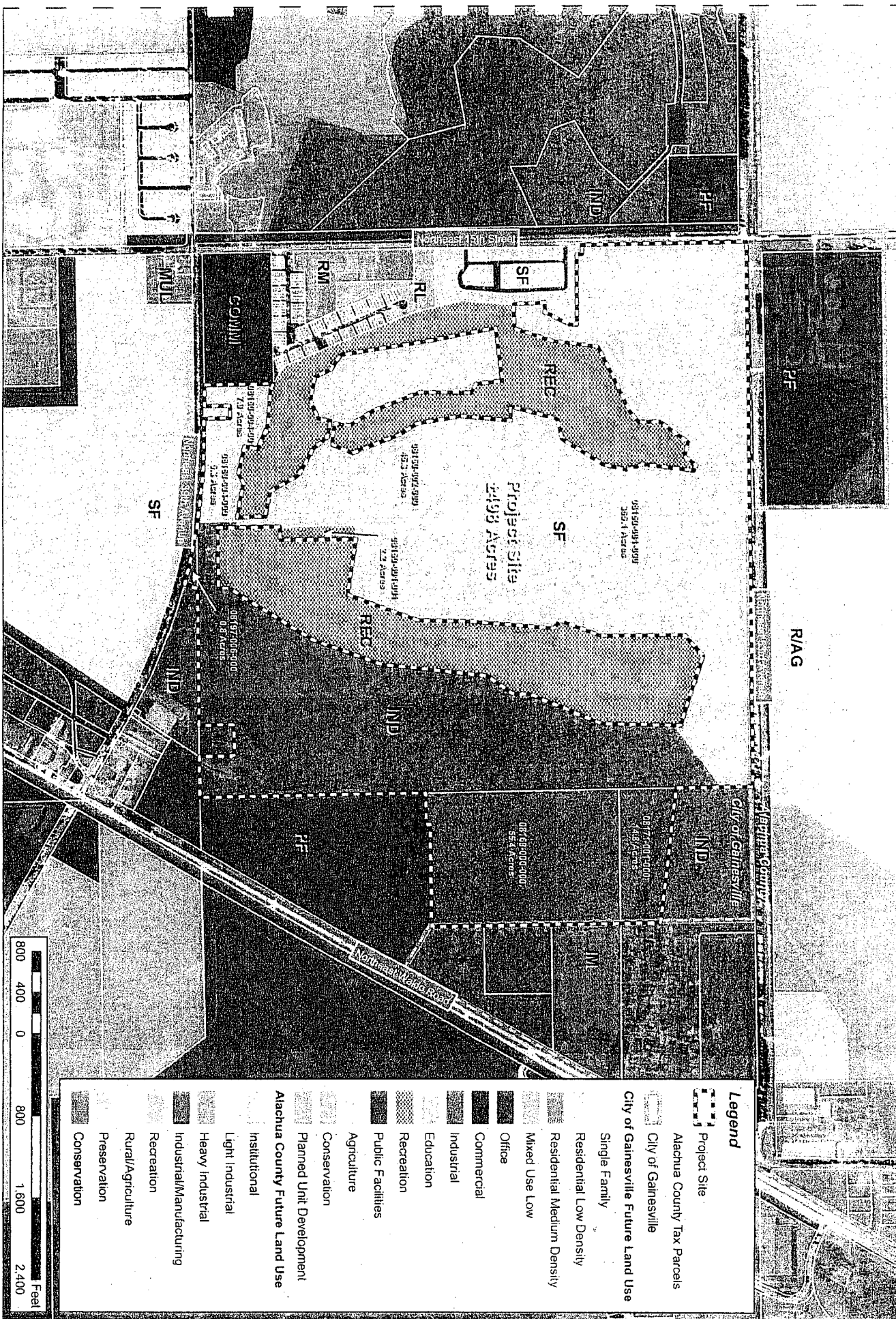
~~Prior to the application for PD zoning related to the Hatchet Creek planned use district, a signal warrant analysis for the intersection of NE 53rd Avenue/NE 15th Street and for the project driveway at NE 39th Avenue shall be submitted as part of the major traffic study requirements. The specifications for the signal warrant analyses shall be part of the traffic methodology letter that will be signed with the City of Gainesville. The 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.~~

Condition Y

~~Prior to the second reading of the PD zoning ordinance, the developer shall sign a binding letter of agreement with Gainesville Regional Utilities' GRU.com to provide for the installation of fiber optic cable consistent with the City's Traffic Management System (TMS) standards, which shall run along NE 39th Avenue from NE 15th Street to Waldo Road. 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.~~

Condition Z-5

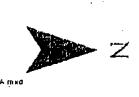
At least 80% of theAll residential development shall be housing designated for persons where at least one member of the household is ~~who are~~ 55 years or older in accordance with the Federal Fair Housing Act (Title 42, Chapter 45, Subchapter 1, U.S.C.), the Florida Fair Housing Act (Chapter 760, Part II, F.S.) and all related federal and state regulations. ~~This restriction on the housing for persons of 55 years or older~~ 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.



Legend	
	Project Site
	Alachua County Tax Parcels
	City of Gainesville
	City of Gainesville Future Land Use
	Single Family
	Residential Low Density
	Residential Medium Density
	Mixed Use Low
	Office
	Commercial
	Industrial
	Education
	Recreation
	Public Facilities
	Agriculture
	Conservation
	Planned Unit Development
	Alachua County Future Land Use
	Institutional
	Light Industrial
	Heavy Industrial
	Industrial/Manufacturing
	Recreation
	Rural/Agriculture
	Preservation
	Conservation



Causseaux & Ellington, Inc.
 2001 North 11th Avenue, Suite 200
 Gainesville, FL 32609
 Phone: 352-335-5555
 Fax: 352-335-2422
 E-mail: c&e@cei.com



Hatched Creek Planned Use District

ILLUSTRATION 2A
 EXISTING
 FUTURE LAND
 USE MAP

Shalley, Nicole M.

From: Mimms, Dean L.
Sent: Wednesday, March 19, 2008 3:08 PM
To: Radson, Marion J.; Shalley, Nicole M.
Subject: FW: Assisted Living Facility Beds in Gainesville / Hatchet Creek PUD

Marion and Nicole,

Copying you...

Dean

From: Mimms, Dean L.
Sent: Wednesday, March 19, 2008 3:07 PM
To: 'Rasimensky@aol.com'
Cc: Bredfeldt, Erik A.; Hilliard, Ralph W.
Subject: Assisted Living Facility Beds in Gainesville / Hatchet Creek PUD

Dear Mr. Simensky,

I have reviewed your e-mails below (I copied your separate e-mail to Commissioner Donovan so that I can provide comments within it, please see below). My responses within both of your e-mails are in *italics with royal blue font*.

The numbers of licensed Assisted Living Facility are from State of Florida AHCA (Agency for Health Care Administration) data shown on the FloridaHealthfinder.gov website. Please note that there are only five ALFs (Assisted Living Facilities) within the city limits of Gainesville, and that the total number of licensed ALF beds in those facilities is 290. Two ALFs Harborchase of Gainesville (1415 Fort Clarke Boulevard); and the North Florida Retirement Village (8000 NW 27th Boulevard) are located in unincorporated Alachua County. They are licensed for 79 and 70 beds respectively, which brings the total number for Gainesville and unincorporated Alachua County to 439. (The three facilities in High Springs, Melrose and Newberry total 43 ALF beds, which brings the Countywide total to 482 beds.)

I spoke on March 17th (and 14th) with Mr. Rick Heath, the administrator of the North Florida Retirement Village (generally referred to as the Village), who informed me that an additional 80 ALF beds are planned (building construction is underway) to be in place by July 2009. Application to ACHA for licensing the additional beds has not yet been made, but approval of the future application is expected.

If the additional 80 beds for the Village are considered, then the total number of beds in Gainesville and unincorporated Alachua County is expected to be 519 by the summer of 2009.

Additional comments are below. My recommendation for a maximum of 300 ALF beds is explained in the paragraph I inserted near the end of your February 13th e-mail below.

Please let me know if you have any questions.

3/31/2008

ATTACHMENT 4

Dean

Dean Mimms, AICP
 Chief of Comprehensive Planning
 Planning & Development Services Department
 City of Gainesville
 P.O. Box 490, Station 33
 Gainesville, FL 32602-0490
 Tel. 352-334-5022
 Fax 352-334-2648
mimmsdl@cityofgainesville.org

From: Rasimensky@aol.com [mailto:Rasimensky@aol.com]

Sent: Wednesday, February 13, 2008 3:54 PM

To: Mimms, Dean L.

Cc: Bredfeldt, Erik A.; Hilliard, Ralph W.; Lazzari, Onelia R.; Scott, Teresa A.; Garland, Mark A.

Subject: Fwd: Assisted Living Facility Beds in Gainesville

Dear Dean -

Following is an email I just sent to Commissioner Donovan to respond to some questions he had asked me regarding assisted living facility beds in Gainesville. I thought I would also send this on to you, as it is responsive to your comments regarding Condition A. Also, the 83,000 figure referred to in the original email was footnoted as coming from a Gainesville Sun article. *(As noted in my e-mail of February 1st, that number is not supported by the U.S. Census Bureau's 2006 Population Estimates for Alachua County, which show a total age 55 and above population of 45,692. The Census Bureau's 2006 estimate for age 65 and over is 23,659. We are obliged to defer to the U.S. Census Bureau estimates.)*

Since it appears that there will be 581 (519, *per explanation below*) assisted living beds in Gainesville (*including the 149 ALF beds in the two facilities in unincorporated Alachua County*) by the Summer of 2009 without the increase in demand from the Hatchet Creek PUD site, perhaps you could see your way to supporting the 400 bed maximum limit for the site. This would be in line with Oak Hammock and The Village - roughly 30% of independent living homes. (I think we were in agreement that demand, without the Hatchet Creek or other age-restricted community development, should approximately double in the next 20 years - adding need for approximately another 581 (*max. 519*) beds. I understand this figure (includes 290 within Gainesville municipal boundaries, plus is different than the 192 (*corrected March 14th to 290*) ALF beds in Gainesville you cited in your email to me on February 1st. I gathered the information in the email to Commissioner Donovan by looking at the State's registry of licensed assisted living beds and confirming these figures by directly calling the facilities.) *(In addition to reviewing data on the State website, I spoke on March 14th with Florida AHCA Licensure's ALF Manager, Ms Alberta Granger, and with ACHA Area 3 Alachua Field Office staff. They separately informed me that the number of ALF beds shown on the website is correct. As stated above, per current ACHA data, the current total for the five ALFs in Gainesville is 290. The total number for the five ALFs in Gainesville plus the two ALFs in unincorporated Alachua County is 439. Assuming completion and approval for 80 additional beds at North Florida Retirement Village by July 2009, the total for these seven ALFs would be 519 ALF beds.)*

Staff can support no more than a 300-bed maximum number for ALF beds. This number allows for effectively doubling of the current number (290) of ALF beds within Gainesville's municipal boundaries. Note that applicant and staff are assuming a doubling of the age 65+ population cohort over the next 20 years. It would not be reasonable to establish a higher than 300-bed limit since there are five other ALF facilities in Gainesville, within which additional ALF beds would presumably be provided to help meet the assumed doubling of the age-65+ population. This is a generous allowance not only considering the assumed population increase, but also considering the fact that a 300-bed ALF is an extremely large facility, compared to other ALFs not only in Alachua County but elsewhere in the State. (Staff presumes that management and licensing requirements (of the State of Florida Agency for Health Care Administration) tend to generally limit the size of ALFs. Staff review on March 18th of the FloridaHealthfinder.gov website for two large counties (Broward, with 283 ALFs, and Duval, with 73 ALF facilities) showed that the large majority of facilities have fewer than 100 beds, and that many have fewer than 10 beds. By far the largest in Duval County is the 288-bed Aspen Wyndham Lakes facility (the next

3/31/2008

largest, Summerville at Mandarin has 170 beds. The largest in Broward County (Deerfield Beach) is The Renaissance with 240 beds (the next largest is Summerville at Regency, in Margate, with 213 beds)).

Please let me know what you think. I look forward to hearing from you.

Kind regards,

Robert A. Simensky
East Gainesville Development Partners LLC
P.O. Box 5156
Gainesville, FL 32627-5156
Tel: (352) 222-7714
Email: rasimensky@aol.com

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Dear Commissioner Donovan -

Thank you again for taking the time to meet with me on January 31st. I greatly appreciate your willingness to revisit some conditions, including expanding the footprint of the contemplated mixed-use development over the entire site.

I trust you received last week a copy of the updated Fishkind jobs report that was filed with the planning department last August, along with the other materials to match the proposed development limits on the site.

Based on our discussion regarding ALF beds and the questions you presented, I thought it would be useful to you to provide you with more detailed information regarding assisted living facilities in Gainesville. According to State records, there are 10 assisted living facilities in Alachua County - 7 of which are in Gainesville.

The seven facilities in Gainesville are:

1. Alterra Clare Bridge of Gainesville
4607 NW 53rd Avenue
Gainesville, FL 32606-4357
2. Alterra Sterling House of Gainesville
4601 NW 53rd Avenue
Gainesville, FL 32606
3. Harborchase of Gainesville
1415 Fort Clarke Blvd (*outside of Gainesville*)
Gainesville, FL 32606
4. North Florida Retirement Village
8000 NW 27th Blvd (*outside of Gainesville*)
Gainesville, FL 32606
5. Oak Hammock at UF
2680 SW 53rd Lane
Gainesville, FL 32608
6. Southwest Retirement Home
3207 SW 42nd Place
Gainesville, FL 32608
7. Summerville at Gainesville
1001 SW 62nd Blvd
Gainesville, FL 32607

3/31/2008

After calling each facility and talking to the head of marketing wherever I could, following is the best information I was able to gather at this juncture. **There appears to be capacity of 581 (519, per explanation above) assisted living beds in Gainesville, including 120 (80 additional ALF beds anticipated, per 3/17/08 conversation with Mr. Rick Heath, administrator of North Florida Retirement Village) beds coming on-line at The Village in 2009.** I would expect local ALF bed demand to double in the next 20 years, independent of attracting seniors to Gainesville - as the Hatchet Creek PUD development is intended to do (Staff has no basis for assuming that the proposed Hatchet Creek development will result in an increase in senior population, in addition to your assumed doubling of ALF demand). I believe Staff is in agreement with this general assumption of demand independently doubling in the next 20 years. (If the age 65+ population cohort doubles in the next 20 years, staff concurs with the general assumption that ALF bed demand can be expected to double in that period.)

The breakdown of assisted living beds is, to the best of my knowledge, as follows:

Alterra Clare Bridge of Gainesville = 38 (concur)

Alterra Sterling House of Gainesville = 60 (concur)

Harborchase of Gainesville (*outside of Gainesville*) = 79 (concur)

North Florida Retirement Village (*outside of Gainesville*) = 190 (including 60 double apartments becoming available in 2009) (70 ALF beds approved, plus 80 ALF beds planned for July 2009 – this would increase the total to 150 ALF beds)

Oak Hammock at UF = 79 (70 approved)

Southwest Retirement Home = 12 (concur)

Summerville at Gainesville = 123 (108 assisted living beds in double rooms that can accommodate another resident, plus an additional 15 memory related rooms - there are currently 125 residents at Summerville) (110 ALF beds approved)

This is substantially similar to the State's registry at <http://facilitylocator.floridahealthstat.com>. (The numbers differ in several cases. See above.)

You had also asked about the percentage of assisted living beds to independent living units at Oak Hammock and The Village. **Oak Hammock has 269 (confirmed in telephone conversation March 18, 2008 with Oak Hammock's John Morris and Carlos Rainwater) independent living homes, making the percentage of assisted living beds (70 ALF beds, per AHCA, confirmed by Oak Hammock's J. Morris and C. Rainwater, who added that 61 of the 70 beds are occupied) to independent living homes 29.4% (79/269) (70/269 = 26%).** The Village has 6 independent living areas, including 2 that are currently under construction. I spoke with the receptionist (staff's numbers are from telephone conversation March 17, 2008 with The Village's administrator, Mr. Rick Heath) who provided me with approximate breakdowns of independent living units there - estimated to be 624 (515), including approximately 250 (170) homes under construction (Cottage Place = 64 (45), Lake House = 180, Magnolia Grand = 60, Tower Villas = 70 (60), Magnolia Grand South = 180 (60) (under construction), The Cypress = 70 (110) (under construction)). **Thus the estimated percentage of assisted living beds (70 currently, plus 80 anticipated) to independent homes (including units under construction) at The Village is 30.5% (190/624) (150/515 = 29.1%).** As you know, we have reduced the requested ultimate limit on ALF beds on the site from 500 to 400. **If the Hatchet Creek PUD had a comparable percentage (30%) of assisted living beds, it would translate into 360 to 450 ALF beds, depending on the maximum allowed home limit ultimately put on the site (1,199 to 1,500).** (See comments above re: maximum number of ALF beds for Hatchet Creek.) Also for your information is the response I received from Dean Mimms on February 1st regarding Condition A, which includes the limit for ALF beds put on the site.

1. Condition A: PUD to apply to entire 500 acres of property with maximum of 1,500 residences and 400 ALF beds. No residential or ALF beds in 65+ DNL noise contour east of the golf course (i.e., existing Industrial area). *The City Commission after lengthy discussions excluded the approximately 199-acre, Industrial land use category from the PUD, and limited the PUD to 1,199 residential units. As to ALF beds, the population numbers you presented do not support your proposal for 400 ALF beds. Your January 22nd e-mail stated that there are an estimated 83,000 residents over the age of 55 in Alachua County. That number is not supported by the U.S. Census Bureau's 2006 Population Estimates for Alachua County, which show a total age 55 and above population of 45,692. The Census Bureau's 2006 estimate for age 65 and over is 23,659. Please provide additional documentation (e.g., a table showing age-cohort data from the Bureau of Economic and Business Research (BEER) and we will review it. Absent such documentation, assuming a doubling in the age 65*

and over population by the year 2030, staff would be willing to support a maximum of 200 ALF beds in the PUD. This number is more than twice the number of ALF beds that are now in Gainesville (192 beds. Per Agency for Health Care Administration, as of 10/25/07).

I hope this information is responsive to the questions you presented in our meeting regarding ALF beds. Please do not hesitate to contact me if you would like any additional information.

Kind regards,

Robert A. Simensky
East Gainesville Development Partners LLC
P.O. Box 5156
Gainesville, FL 32627-5156
Tel: (352) 222-7714
Email: rasimensky@aol.com

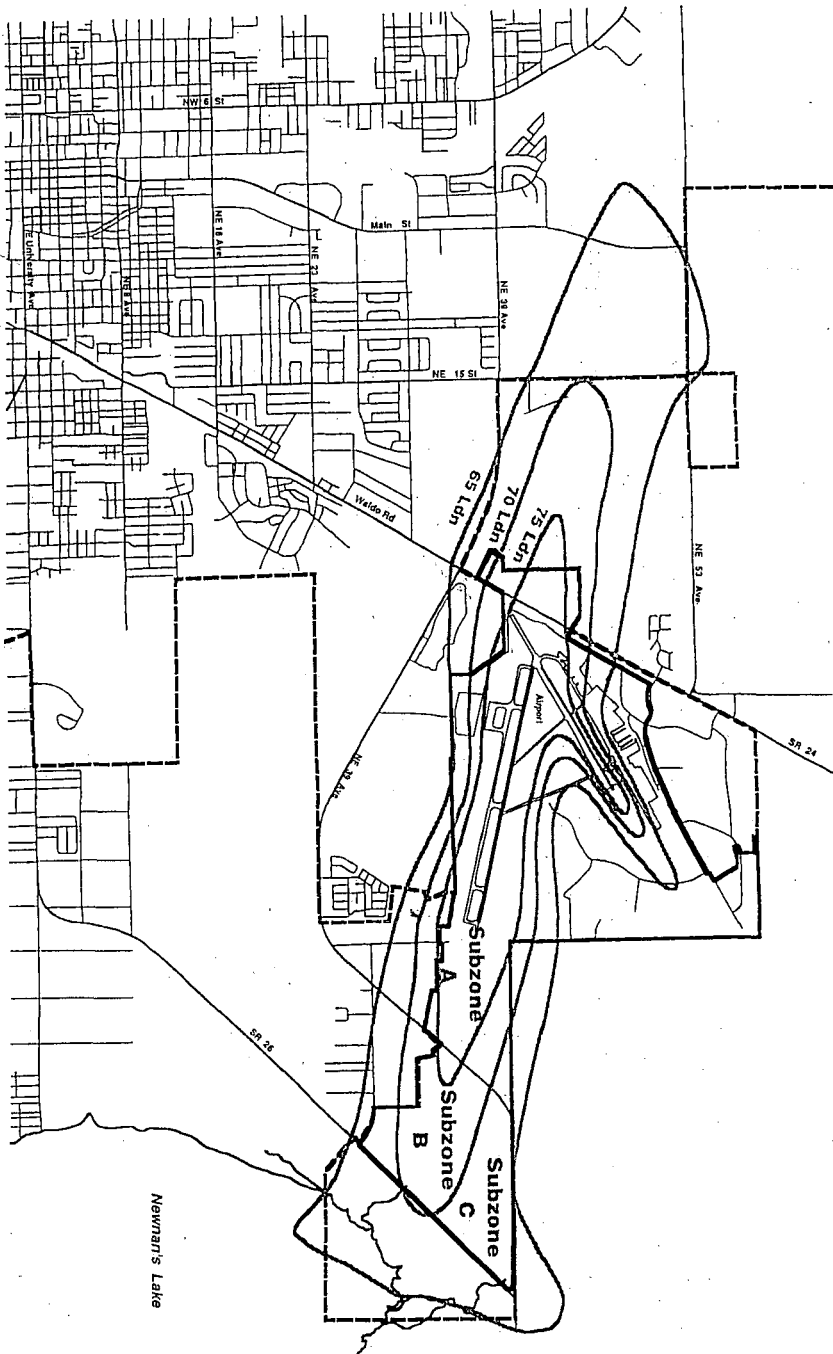
The year's hottest artists on the red carpet at the Grammy Awards. [AOL Music takes you there.](#)

AIRPORT NOISE ZONE

Gainesville Regional Airport

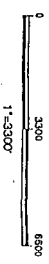
Legend

- Decibel Contours Depicting Airport Noise
- Airport Property Line
- City Limits







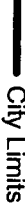
Source:
 CH2M Hill, Drawing 4, Gainesville Regional Airport Master Plan, Prepared under the Airport and Airway Improvement Act of 1982.

City of Gainesville
 Gainesville, Florida
 Prepared by the
 Department of Community Development
 MARCH 1999

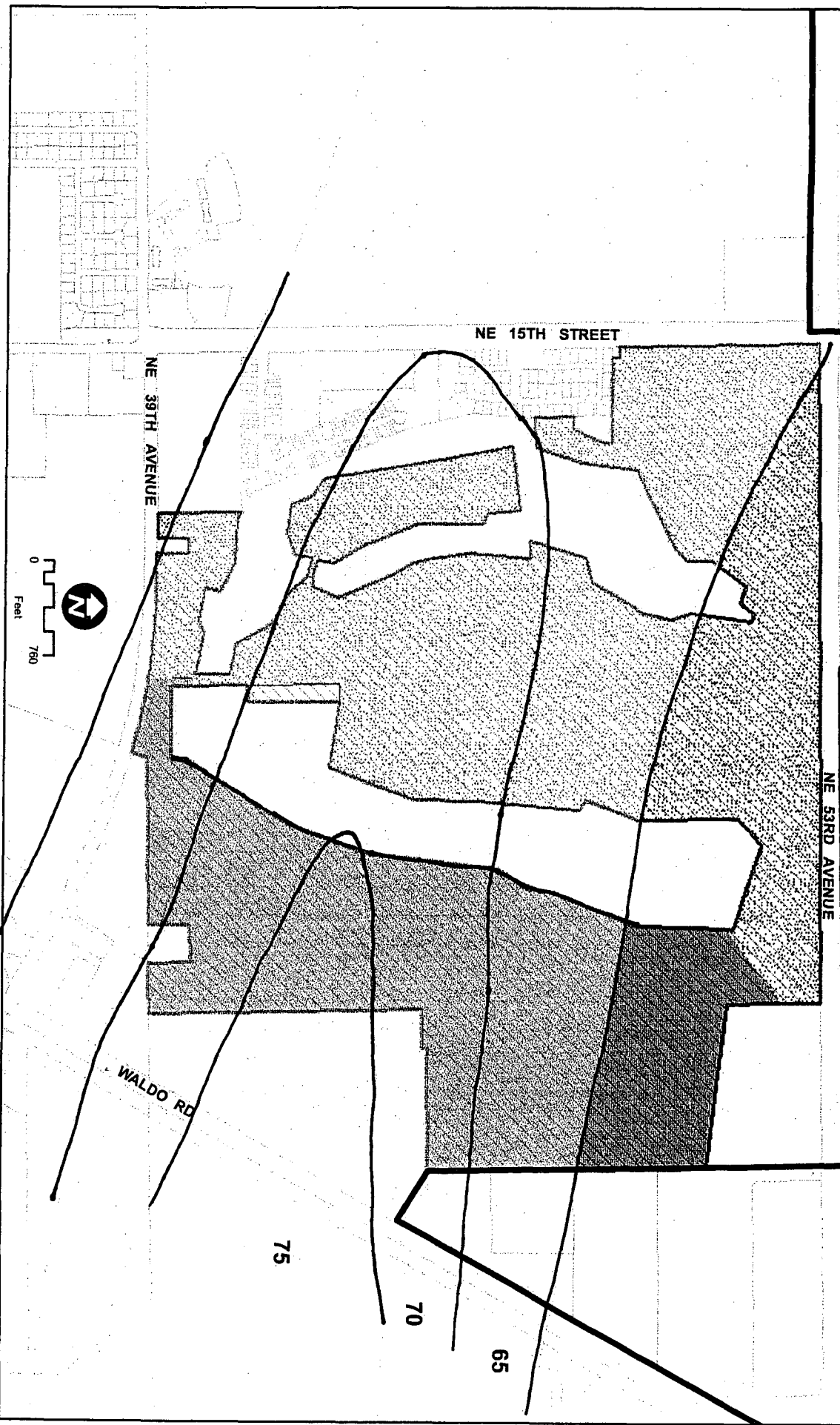


204.43 acres of SF affected.
154.60 acres of IND affected.

Murphree Water Plant

	Petition Area		IND
	LDN's		SF
	City Limits		

Prepared by the Dept. of Comm. Dev.
GIS File: 23LUC-07PB_LDN65_B&W_071007.mxd








Petition 23LUC-07PB

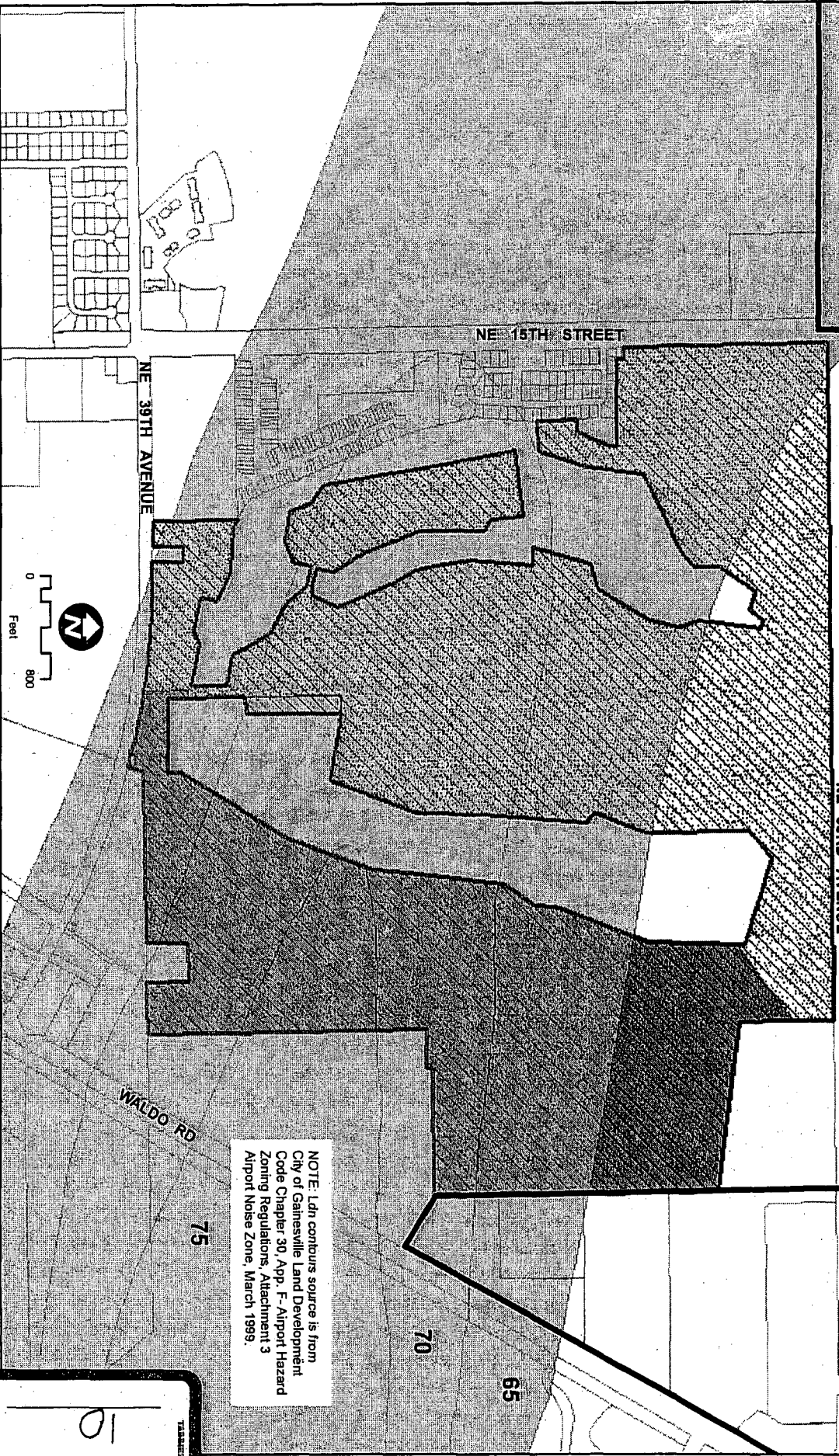
288.66 total acres SF
 204.43 acres SF affected
 84.23 acres SF unaffected

Murphree Water Plant

198.72 total acres IND
 154.60 acres IND affected
 44.12 acres IND unaffected

LUP Category	
	Petition Area 489.55 acres
	IND 198.72 acres
	SF 288.66 acres
	LDNs
	City Limits

Prepared by the Dept. of Comm. Dev.
 GIS File: 23LUC-07PB_LDN65_B&W_071307.mxd



NOTE: Ldn contours source is from City of Gainesville Land Development Code Chapter 30, App. F - Airport Hazard Zoning Regulations, Attachment 3 Airport Noise Zone, March 1999.

10
 EXHIBIT

HARRIS MILLER MILLER & HANSON INC.

77 South Bedford Street
Burlington, MA 01803
T 781.229.0707
F 781.229.7939
W www.hmmh.com

July 12, 2007

Ralph Hilliard, Planning Manager
City of Gainesville, Florida
P.O. Box 490, Station 11
Gainesville, FL 32602

Subject: Summary Opinion Related to Hatchet Creek Development Rezoning Proposal
Reference: HMMH Project No. 302390

Dear Mr. Hilliard:

In response to your request, I am pleased to provide this letter summarizing my professional opinion regarding the proposed rezoning of areas immediately west of Gainesville Regional Airport (GNV) from "R-1" and "I-1" to permit residential development of the "Hatchett Creek Planned Use District" ("PUD"). My opinion addresses noise-related land use compatibility issues that are the focus of my career.

Basis of Opinion

I have based my opinion on the following primary sources that you provided me:

1. April 2, 2007 letter from Mr. Allan Penska, GNV, to Mr. Russ Blackburn, City of Gainesville.
2. April 9, 2007 letter from Ms. Rebecca Henry, Federal Aviation Administration (FAA), to Mr. Allan Penska, GNV.
3. May 10, 2007 letter from Mr. John Collins, Aircraft Owners and Pilots Association (AOPA), to The Honorable Pegeen Hanrahan, Mayor, City of Gainesville.
4. June 27, 2007 letter from Mr. William Ashbaker, Florida Department of Transportation (FDOT), to The Honorable Pegeen Hanrahan, Mayor, City of Gainesville.
5. July 11, 2007 letter from Mr. Ronald Carpenter, Carpenter & Roscoe, P.A., to Mr. Dean Mimms, City of Gainesville, including the following attachments: (1) revised text for subarea policies of the PUD Overlay comprehensive plan, and (2) response to comments from GNV.
6. Appendix F. Airport Hazard Zoning Regulations, including Attachments 1 - 4, showing (1) "Airport Runway Height Zones," (2) "Airport Runway Clear Zones," (3) "Airport Runway Noise Zone," and (4) "Restrictions on Educational Facilities," and Exhibit A showing "Airport Facility Zoning Map."
7. Pages 5-13 through 5-28 of June 2006 Environmental Overview section of GNV Master Plan Update Final Report
8. Multiple figures depicting the project site in relation to the airport and Day-Night Average Sound Level (DNL) contours prepared under previous planning studies for GNV

I also have based my opinion on my experience in airport noise compatibility planning, as summarized in the attached copy of my professional resume.

Project Understanding

It is my understanding that a mixed land use development, named "Hatchet Creek," is proposed adjacent to GNV, in an area generally bounded to the west by NE 15th Street, to the south by NE 39th Avenue, to the north by NE 53rd Avenue, and to the east by the Gainesville city limits and the GNV property line.

The developer is petitioning the City to approve the development as a Planned Use Development (PUD). The PUD will require City approval of a Planned Development (PD) zoning ordinance. The application includes a request that the City rezone the eastern portion of the site from "industrial" ("I-1") and the western portion of the site from "single family" ("R-1"), to permit higher density residential development. These two areas surround a golf course zoned "recreational." That use will not change.

HARRIS MILLER MILLER & HANSON INC.

Ralph Hilliard, Planning Manager, City of Gainesville, Florida
Summary Opinion Related to Hatchet Creek Development Rezoning Proposal
July 12, 2007
Page 2

The applicant requests permission to develop up to 1,300 single and multi-family residential units (reduced from an earlier request for a maximum of 2,900). The applicant also requests approval to develop up to 500 assisted living facility units (another form of residential use), 50,000 square feet commercial use, and 60,000 square feet of office use. The applicant has proposed that the development would not include any residential units within the 65 decibel (dB) DNL contour east of the Ironwood Golf Course; i.e., in the area currently zoned I-1.

A majority of the site (and the portions currently zoned R-1 and I-1) fall within "Airport Noise Subzones" "A," "B," or "C," defined by the City's Airport Hazard Zoning Regulations (item 6, above). The three subzones correspond to the following DNL exposure bands, from a previous GNV noise study:

- Subzone A: 75+ dB DNL
- Subzone B: 70 - 75 dB DNL
- Subzone C: 65 - 70 dB DNL

It is my understanding that the noise subzone regulations were adopted largely in response to recommendations from a Federal Aviation Regulation ("FAR") Part 150 "Airport Noise Compatibility Study" that GNV adopted in March 1986.

The Airport Hazard Zoning Regulations permit residential development and "homes for the aged" (e.g., assisted living facilities) in Subzones A, B, or C when two conditions are met:

1. The developer verifies to the City in writing that the structures are designed to achieve an outdoor-to-indoor noise level reduction (NLR) of at least 25 dB. Office and commercial uses are permitted, with no NLR requirements.
2. The proposed development is compatible with the "Official 14 CFR Part 150 study." Since the 1986 Part 150 study is the only one that GNV has conducted, it remains the "official study." The noise contour figures from that study designate residential land within the 65 dB DNL contours as "noncompatible," without any provision for exempting dwelling units meeting the 25 dB NLR requirement; this implies that *all* residential uses are incompatible, making the first condition moot.

More recent noise contours, prepared for the 2006 GNV Master Plan Update (item 7, above) appear to be smaller than those on which the noise subzones were based; however, the 65 dB DNL contours presented in that study encompass a significant portion of the proposed development. Moreover, those contours do not represent an official Part 150 study, in terms of GNV policy nor in terms of FAA policies and procedures for study preparation, public notice, submission, review, and approval.

Summary Opinion

The following statements summarize my major conclusions and recommendations.

1. The City has adopted airport noise zone regulations that reflect relatively high levels of sensitivity to airport noise compatibility in general, and to recommendations from the GNV Part 150. Overall they are consistent with widely accepted "best practices" in those areas. In my 30 years of professional practice, I have found few jurisdictions that have adopted such complete compatible land use regulations related to airport noise.
2. Permitting residential development in the area currently zoned I-1 and permitting an increase in the density of the residential development in the area zoned S-1 would be inconsistent with the best practices adopted by the City.
3. Even if future residents are alerted in advance of current and projected noise exposure; e.g., through a noise notice in the purchase and sale negotiation process, many are likely to be surprised by the exposure once they move into the development.

HARRIS MILLER MILLER & HANSON INC.

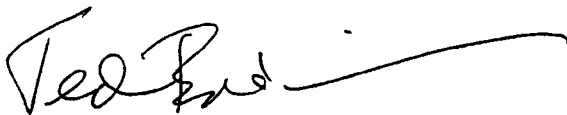
Ralph Hilliard, Planning Manager, City of Gainesville, Florida
Summary Opinion Related to Hatchet Creek Development Rezoning Proposal
July 12, 2007
Page 3

4. Even with sound insulation to achieve the NLR criteria set by the Airport Hazard Zoning Regulations, many residents of the proposed development are likely to be highly annoyed by aircraft noise. I would expect many future residents would express their annoyance through complaints to the airport and developer, and request compensation or changes in airport operations.
5. Moreover, since it appears the GNV Part 150 study designated residential uses as incompatible with aircraft noise of 65 dB DNL and higher, regardless of the extent of sound insulation treatment, literal interpretation of the Airport Hazard Zoning Regulations suggests that *all* residential uses (including assisted living) are impermissible within the noise subzones (which cover a majority of the development site), *regardless of NLR status*.
6. For the major reasons cited above, I recommend *against* approval of the proposed comprehensive plan amendment.
7. If the City does proceed with approval of some or all of the development application, I recommend that the approval include the following conditions:
 - The developer and purchasers of individual properties should provide GNV with avigation easements.
 - The developer should be required to alert prospective residential property purchasers and rental tenants (including potential residents of the assisted living facility) of the avigation easement requirement, of the proximity of the development to GNV, and of the aircraft noise and overflights to which the development is currently and projected to be exposed. This notice should be provided no later than during purchase-and-sale negotiations.
 - The NLR requirements for any residential development, including single or multi-family dwelling units, and assisted living, nursing home, or other similar facilities, be increased to 30 dB, and that any office space development should be required to meet the 25 dB NLR requirement.
 - Educational facilities, places of worship, auditoriums, concert facilities, or similar uses should not be permitted.
 - The exclusion of residential units within the 65 dB DNL contour should extend over the entire site (for that contour value).
8. I support the observations made by GNV, FAA, AOPA, and FDOT commenters (items 1, 2, 3, and 4, above) regarding the general inconsistency of the development proposal with the City's federal grant obligations, with current noise zoning, and with generally accepted compatible land use practice designed to protect residents, the airport, airport users, and local public interest.

I appreciate this opportunity to assist the City on this matter. Please do not hesitate to contact me with any questions. I look forward to presenting my opinions in person at the July 19 City Plan Board Zoning Meeting and Plan Board meeting and at an upcoming City Commission meeting.

Sincerely yours,

HARRIS MILLER MILLER & HANSON INC.



Ted Baldwin
Senior Vice President

attachment

HARRIS MILLER MILLER & HANSON INC.

Ralph Hilliard, Planning Manager, City of Gainesville, Florida
Summary Opinion Related to Hatchet Creek Development Rezoning Proposal
Attachment to Letter of July 12, 2007
Page A.1



Ted Baldwin

Senior Vice President and Supervisory Consultant

Experience

1984 to present Harris Miller Miller & Hanson Inc.
1981 to 1984 Bolt Beranek and Newman Inc., Senior Consultant
1980 to 1981 Massachusetts Port Authority, Aviation Planner
1977 to 1980 Massachusetts Port Authority, Noise Abatement Office

Professional Responsibilities

Mr. Baldwin specializes in airport environmental analysis. His professional experience includes Part 150 noise compatibility studies, Part 161 use restriction studies, state and federal environmental impact assessments, noise elements of Airport Master Plan studies, the design and use of permanent noise and operations monitoring systems, noise measurement and modeling, and expert testimony.

Before entering consulting, Mr. Baldwin held several responsible staff positions at the Massachusetts Port Authority (Massport), operator of Boston-Logan International and L.G. Hanscom Field (Bedford, MA). Through his Massport experience he gained an understanding of an airport operator's perspective on planning, operational and environmental issues.

Education

M.C.R.P., Harvard University, 1977, Department Scholar
B.S., Engineering, Cornell University, 1975, Honors Graduate

Honors and Affiliations

Federal Aviation Administration Certificate of Appreciation, 1989
Member, American Association of Airport Executives
Member, Institute of Noise Control Engineering
Associate Member, Acoustical Society of America

Representative Publications and Presentations

"What Do Users Say About Their Monitoring Systems?" Florida Airports Council Environmental and Noise Conference, Daytona, FL; January 2007
"The Naples Stage 2 Ban," Airports Council International - North America Annual Conference; Toronto, Canada; September 2005
"Emerging Aircraft Noise Issues," FAA/Airport Consultants Council National Management Conference Environmental Workshop; Washington, D.C.; July 2000.
"Political Acoustics: The Changing Dynamics of Aircraft Noise," Florida Airport System Planning Process meetings; Fort Myers and Fort Lauderdale, FL; February 2000
"The Anatomy of a Successful Project," Airport Consultants Council Annual meeting; Palm Springs, CA; November 1997
"Hot Topics in Aviation Noise: A Selective List"; Florida Airport Managers Association Noise Abatement and Community Affairs Annual Seminar; Orlando, FL; October 1997.
"The Evolution of Airport Noise Monitoring Systems: Recent Achievements and Further Needs," NOISE-CON 93; Williamsburg, VA; May 1993.
"Limitations of Ldn in the Assessment of Airport Noise," American Society for Testing and Materials, Noise Subcommittee E-33-96; Bal Harbour, FL; October 1987.
"Airport Noise Annoyance at Three Joint Air Carrier and General Aviation Airports," Journal of the Acoustical Society of America, Vol. 77, No. 3, March 1985, page 1054 (with Fidell, et al.).

HARRIS MILLER MILLER & HANSON INC.

Consultants in Noise and Vibration Control

HARRIS MILLER MILLER & HANSON INC.

Ralph Hilliard, Planning Manager, City of Gainesville, Florida
Summary Opinion Related to Hatchet Creek Development Rezoning Proposal
Attachment to Letter of July 12, 2007
Page A.2



Ted Baldwin

Senior Vice President and Supervisory Consultant

page 2

Representative Projects

Part 150 Studies

- ✎ Boston (MA) Map only (1984)
- ✎ Bridgeport (CT) (1989)
- ✎ Brunswick (GA) (1992)
- ✎ Burlington (VT) (1989, 2006)
- ✎ Chattanooga (TN) (1994)
- ✎ Danbury (CT) (1987)
- ✎ Fort Lauderdale International (FL) (1994)
- ✎ Ft. Lauderdale Exec. (FL) (1985, 1997, 2002)
- ✎ Fresno-Yosemite (CA) (2006)
- ✎ Graton-New London (CT) (1985)
- ✎ Guilford-Biloxi (MS) (1991)
- ✎ Jackson (MS) (1989)
- ✎ Lansing (MI) (1992)
- ✎ Lehigh Valley (PA) (1991, 2004)
- ✎ Macon (GA) (1989)
- ✎ Manchester (NH) Map only (2004)
- ✎ Mobile (AL) (1990)
- ✎ Nantucket (MA) (1987)
- ✎ Naples (FL) (1997, 1998, 2000)
- ✎ Palm Beach (FL) (1994)
- ✎ Piedmont Triad Int'l (NC) (2004)
- ✎ Providence (RI) (1982)
- ✎ St. Lucie County (FL) (2004)
- ✎ Salt Lake City (UT) (1986, 1998)
- ✎ Scottsdale (AZ) (2004)
- ✎ Tampa International (FL) (2000)
- ✎ Vero Beach (FL) (2004)
- ✎ Youngstown (OH) (1994)

Airport Noise and Operations Monitoring Systems

- ✎ Airports Company South Africa (2003)
- ✎ Baltimore-Washington Int'l (MD) (1986)
- ✎ Boston Logan and Hanscom (MA) (2003)
- ✎ Chicago O'Hare and Midway (IL) (1995)
- ✎ Denver Stapleton (CO) (1988)
- ✎ Denver Int'l Airport (CO) (1995)
- ✎ Easthampton (NY)
- ✎ Fort Lauderdale Int'l (FL) (1995)
- ✎ Indianapolis (IN) (2003)
- ✎ Lehigh Valley Int'l (PA) (2003)
- ✎ Louisville (KY) (2003)
- ✎ Minneapolis-St. Paul Int'l (MN) (1993)
- ✎ North Palm Beach County (FL) (1997)
- ✎ Naples (FL) (1997)
- ✎ New Orleans (LA) (1995)
- ✎ Orange County (CA) (1995)
- ✎ Palm Beach County Park (FL) (1997)
- ✎ Palm Beach Int'l Airport (1997)
- ✎ Port Columbus Int'l (OH) (1992)
- ✎ Raleigh-Durham Int'l (NC) (2003)
- ✎ Reno (NV) (2006)
- ✎ Salt Lake City Int'l (UT) (1993)
- ✎ San Antonio (TX) (2003)
- ✎ San Francisco Int'l (CA) (2004)
- ✎ Tampa International (FL) (2001)
- ✎ White Plains (NY) (1984, 1995)

Airport Master Plan Noise Analyses

- ✎ Ft. Lauderdale Exec. (FL) (1985, 1997, 2002)
- ✎ Bridgeport Municipal (CT) (1995)
- ✎ Danbury Municipal Airport (CT) (1983)
- ✎ Ft. Lauderdale Int'l (FL) (1994)
- ✎ North Central State (RI) (1987)
- ✎ Salt Lake City Intern'l (UT) (1998)
- ✎ Salt Lake City No. II (UT) (1987)
- ✎ Tampa International (FL) (2000)

Environmental Assessments or Impact Studies

- ✎ Runway Extension EIS, Fort Lauderdale International (FL) (2003)
- ✎ Runway Extension EA, Palm Beach International (FL) (1998)
- ✎ Runway Extension EIS, Bridgeport Municipal Airport (CT) (1998)
- ✎ EA of Parallel Runway EA, Salt Lake City International Airport (UT) (1992)
- ✎ Runway Strengthening EA, Myrtle Beach Jetport (SC) (1988)

Part 161 Studies

- ✎ Stage 2 Jet Use Restriction Study, Naples Municipal Airport (FL) (2001)
- ✎ Part 161 Study, Van Nuys Airport (CA) (underway)

Other Airport Noise Exposure, Abatement, and Land Use Compatibility Studies

- ✎ Noise Abatement Study, Barnstable Municipal Airport (MA) (1998)
- ✎ Noise Exposure Update, Dallas-Love Field (TX) (1983, 1984, 1985, and 1986)
- ✎ Evaluation of Reinstitution of Night Landings at Westchester County (NY) (1982)
- ✎ ANCLUC Study, Hanscom Field (MA) (1980)

Expert Testimony and Litigation Support

- ✎ Osipovs vs. Chesapeake Airport Authority (2007)
- ✎ City of Naples (FL) Airport Authority vs. Federal Aviation Administration (2003)
- ✎ NBAA and GAMA vs. City of Naples (FL) Airport Authority (2001)
- ✎ Aircraft Owners and Pilots Association et al. vs. City of Chicago et al. (1995)
- ✎ Wakefield/Austin vs. Broward County (FL) (1992)
- ✎ Stark vs. City of Atlanta (GA) (1988)
- ✎ Sarasota-Manatee Airport Authority vs. Manatee County (FL) (1986)
- ✎ Katsos et al. vs. Salt Lake City International Airport Authority (1986)
- ✎ Gratie et al. vs. Allegheny County (PA) Department of Aviation (1983)
- ✎ National Business Aircraft Association et al. vs. Westchester County (1982)

HARRIS MILLER MILLER & HANSON INC.

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August 5, 2007

Ralph Hilliard, Planning Manager
City of Gainesville, Florida
P.O. Box 490, Station 11
Gainesville, FL 32602

Subject: Review of July 30, 2007 Fowler White Boggs Banker "Hatchet Creek" Memorandum
Reference: HMMH Project No. 302390

Dear Mr. Hilliard:

In response to your request, this letter briefly summarizes my review of the Fowler White Boggs Banker (FWBB) memorandum on my July 12, 2007 letter on the Hatchet Creek application for a comprehensive plan amendment.

On the most significant level, the authors of the memorandum appear to have misunderstood the purpose of my review, which, as I stated in the first sentence of my letter, was to present "my professional opinion regarding the proposed **rezoning**" [emphasis added]. The FWBB memorandum focuses on whether residential use is permitted in the Gainesville "Airport Noise Zones." In my opinion, that issue is relevant only to the extent that an area is already zoned residential. The zoning regulations clearly characterize residential development as permissible only on a "qualified" basis (i.e., with special noise-reduction construction or an aviation easement). The key issue facing us is the request to change the permitted land use in a manner that will change the zoning in the area affected by the highest noise exposure from industrial (which is compatible on an unqualified basis) to residential, and permit higher density residential development in other areas. Regardless of the permissibility of residential use in a noise zone, increasing the numbers of residents to high levels of noise exposure is undesirable.

The FWBB memorandum included a relatively lengthy discussion of "Compatibility," that focuses to a large extent on "Note 1" of FAA's land use compatibility guidelines (e.g., Table 1 of Part 150 Appendix A). FWBB correctly points out that FAA guidelines suggest that otherwise noncompatible residential land uses may be permitted within the 65 - 70 dB or 70 - 75 dB DNL contour intervals with the application of at least 25 dB or 30 dB of Noise Level Reduction (respectively). However, the note starts as follows "Where the community determines that residential or school uses **must** be allowed," [emphasis added]. The word "must" is of critical importance; it implies that the community has identified a significant local need or purpose that impels the jurisdiction to override the land use compatibility objective. I am not aware that such a local need or purpose has been identified in Gainesville.

FWBB asserts I "apparently based [my] opinions ... on the incorrect conclusion that the GNV FAR Part 150 Study prohibits all residential uses." Item 6 of my letter clearly states that my opinions were based on five items. In the fifth item, I stated that "since it appears that the GNV Part 150 study designated residential uses as incompatible with aircraft noise of 65 dB DNL and higher, regardless of the extent of sound insulation treatment, literal interpretation of the Airport Hazard Zoning Regulations suggests" such a conclusion. Objective reading of my letter clearly reveals that interpretation of the GNV Part 150 was only one of the bases for my opinion (and the last one listed, reflecting its lowest priority), and also that ambiguity in the study left it open for interpretation (i.e., my use of the terms "suggests" and "appears").

On a more detailed basis, I have the following observations about the manner in which FWBB memorandum addresses my full list of opinions and recommendations:

HARRIS MILLER MILLER & HANSON INC.

Ralph Hilliard, Planning Manager, City of Gainesville, Florida
Review of July 30, 2007 Fowler White Boggs Banker "Hatchet Creek" Memorandum
August 5, 2007
Page 2

1. *The City's noise zone regulations reflect high levels of sensitivity to noise compatibility and are consistent with widely accepted "best practices."*

The FWBB memorandum argues that since residential use is permitted under some conditions in the noise zones, it is a "best practice." This argument ignores my second point; i.e., that the existing industrial zoning properly limits residential development in the highest noise exposure area.

2. *Permitting residential development in the area currently zoned I-1 and permitting an increase in the density of the residential development in the area zoned S-1 would be inconsistent with the best practices adopted by the City.*

The FWBB memorandum does not address this point which, as I noted above.

3. *Even if future residents are alerted in advance of current and projected noise exposure; e.g., through a noise notice in the purchase and sale negotiation process, many are likely to be surprised by the exposure once they move into the development.*

The FWBB memorandum does not address this point.

4. *Even with sound insulation to achieve the NLR criteria set by the Airport Hazard Zoning Regulations, many residents of the proposed development are likely to be highly annoyed by aircraft noise. I would expect many future residents would express their annoyance through complaints to the airport and developer, and request compensation or changes in airport operations.*

The FWBB memorandum does not address this point.

5. *Since it appears the GNV Part 150 study designated residential uses as incompatible with aircraft noise of 65 dB DNL and higher, regardless of the extent of sound insulation treatment, literal interpretation of the Airport Hazard Zoning Regulations suggests that all residential uses (including assisted living) are impermissible within the noise subzones (which cover a majority of the development site), regardless of NLR status.*

As noted above, this item identifies the ambiguity of the Part 150 and is only one of the bases for my opinions and recommendations.

6. *For the major reasons cited above, I recommend against approval of the proposed comprehensive plan amendment.*

As discussed above, the FWBB memorandum ignores this item and asserts that my opinions and recommendations were based on item 5.

7. *If the City does proceed with approval of some or all of the development application, I recommend that the approval include the following conditions: ...*

FWBB addresses one of the conditions only – aviation easements – and focuses on the protection it provides the airport and ignores the interests of future residents. Easements serve only as a means of notifying residents of potential noise exposure. They do nothing to prevent exposure, mitigate exposure, or compensate residents for unmitigated exposure; as such, they are generally considered a land use measure of last resort. Clearly, the airport is one of the parties interested in obtaining protection through easements. However, residents deserve protection as well. It is interesting that the developer's attorneys choose to ignore the interests of the development's ultimate "clients." In preparing my opinion, I assumed the City takes a broader perspective and has a keen interest in protecting the health and welfare of current and future residents.

HARRIS MILLER MILLER & HANSON INC.

Ralph Hilliard, Planning Manager, City of Gainesville, Florida
Review of July 30, 2007 Fowler White Boggs Banker "Hatchet Creek" Memorandum
August 5, 2007
Page 3

8. *I support the observations made by GNV, FAA, AOPA, and FDOT commenters regarding the general inconsistency of the development proposal with the City's federal grant obligations, current noise zoning, and generally accepted compatible land use practice designed to protect residents, the airport, airport users, and local public interest.*

FWBB focus solely on whether "Airport grant funds are at risk because of the project." More specifically, they focus on potential jeopardy of future noise mitigation funding, which they point out is not an issue, because no such funding request is anticipated. They also argue that no one has demonstrated how Airport grant funds may be at risk because of the project.

The FAA's letter states that the change in zoning may cause the FAA to "find the City's actions to be in conflict with federal grant assurances, and future airport improvement program funding may be in jeopardy." This statement is a clear warning from the FAA that "grant funds may be at risk" and also clearly applies to all funding for all purposes, not just noise mitigation. AIP funding is a significant revenue source for most airports. I did a quick Google search and found references to many millions of dollars in AIP applications from GNV over the past five years or so.

In closing, the FWBB memorandum states that my concerns do not demonstrate any inconsistency between approval of the development and FAA policies or regulations. The FAA's written opposition to the project clearly contradicts that statement.

I appreciate this opportunity to assist the City on this matter. Please do not hesitate to contact me with any questions. I look forward to presenting my opinions in person at the July 19 City Plan Board Zoning Meeting and Plan Board meeting and at an upcoming City Commission meeting.

Sincerely yours,

HARRIS MILLER MILLER & HANSON INC.



Ted Baldwin
Senior Vice President



U.S. Department
of Transportation
**Federal Aviation
Administration**

Orlando Airports District Office
5950 Hazeltine National Dr., Suite 400
Orlando, FL 32822-5003

Phone: (407) 812-6331

Fax: (407) 812-6978

October 22, 2007

Mr. Scherwin L. Henry
Gainesville City Commissioner
District 1
City of Gainesville
Station 19, P.O. Box 490
Gainesville, FL 32602-0490

Dear Commissioner Henry:

RE: Gainesville Regional Airport (GNV)
Gainesville, Florida
Hatchet Creek Development

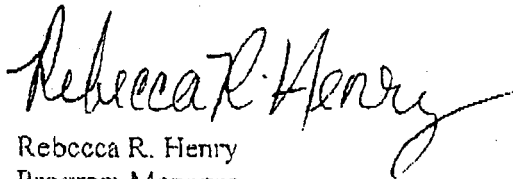
Thank you for your recent correspondence regarding the Hatchet Creek Development. The Federal Aviation Administration (FAA) has been working with the management of Gainesville Regional Airport, as well as representatives of the City of Gainesville, for several months to ensure City leaders have accurate information for the decision making process on this issue.

The City of Gainesville, as the co-sponsor of the Gainesville Regional Airport, is obligated to exercise all rights within their power to ensure compatible land use for the Airport. The Hatchet Creek development is proposed on property within the zoning jurisdiction of the City of Gainesville, and most of this property is currently zoned as compatible land uses with the airport. We understand that to facilitate the Hatchet Creek Development, the City of Gainesville would be required to change the property's zoning. The current Gainesville Regional Airport Part 150 Noise Study states that residential development is incompatible within the 65 DNL noise contour, and the proposed development falls within this noise contour. Therefore, a change of zoning to residential to accommodate this development may be in conflict with Grant Assurance 21, Compatible Land Use. In addition, if the City elects to allow this development, FAA would weigh this information heavily when considering any future discretionary funding requests from the Gainesville Regional Airport.

In closing, attached please find answers to the questions presented in your correspondence. These questions were answered to the best of our ability, considering the time constraints at hand. If we can be of further assistance, please feel free to contact us and, with adequate time, we can expand upon these responses.

I trust this information is helpful.

Sincerely,



Rebecca R. Henry
Program Manager
Planning and Compliance

Attachment (1)

cc: City of Gainesville Office of City Commission (w/attachment)
Allen Penksa, Gainesville Regional Airport (w/attachment)
Rusty Chapman, FAA Southern Region (w/attachment)

1. Question: Is the City of Gainesville considered a "co-sponsor" of GNV?

Answer: Yes.

2. Question: Is it a requirement for the City of Gainesville to be a "sponsor" of future FAA grant applications for GNV that do not exist today?

Answer: The City is a co-sponsor for the purposes of FAA grants. As it currently stands, the City is required to co-sign grants. It would take some research to determine how the City could remove itself from this status if it requested to give up these rights. In any event, the City would remain obligated for 20 years from the date of the last grant that it was a co-sponsor.

3. Question: If the City of Gainesville is not a "sponsor" of FAA grant applications, are we bound by Grant Assurance 21 referenced in your letter to Mr. Penksa dated April 9, 2007?

Answer: The City is a co-sponsor for the purposes of FAA grants, and is obligated by the terms and conditions attached to each grant (grant assurances). This includes Grant Assurance 21.

4. Question: Does the local governing body have the authority to resolve land use and zoning issues and not the FAA?

Answer: The local governing body has complete zoning authority. It does, however, have certain obligations under the FAA grant assurances that it agreed to in accepting grants.

5. Question: If the answer to question #4 above was "yes", then would it not follow that the City of Gainesville has the authority to approve this PUD application in a form that includes the AIRPORT HAZARD ZONE CONDITIONS outlined above?

Answer: The FAA does not dispute the City's authority or right to approve the subject application.

6. Question: Then does it not follow that the FAA does not have the authority to prevent the approval of this PUD application in a form that includes the AIRPORT HAZARD ZONE CONDITIONS outlined above?

Answer: The FAA cannot prevent the approval of the subject application for development. The FAA is, however, advising the City of Gainesville that changing any zoning surrounding Gainesville Regional Airport to an incompatible land use would likely result in a finding of non-compliance.

7. Question: If the City Commission of the City of Gainesville within its sole discretion were to approve this PUJ, other than the risk of losing funding as referenced by Mr. Chapman, whose e-mail stated in its entirety "Based on understanding that the development would be consistent with the approved Part 150 study for the airport, as well as the CFR Table 1 mentioned in your e-mail, **the airport would be eligible to receive funds for airport development.** Please note that any residential development built inside the 65 Ldn (DNL) after FAA approval of a Part 150 program would not be eligible for federal funding to buy it out. **But this would not affect and airport owner's ability to receive federal funding for airport improvements.** What specific future FAA grant funding could be at risk to GNV?

Answer: Although all federal funding could be at risk, FAA would be required to issue a Notice of Investigation and hold hearings prior to suspending any passenger enplanement entitlement funds. However, FAA discretionary funds are awarded at the Agency's discretion, and it is likely that FAA would consider the City's actions when making discretionary funding decisions. For your information, GNV has received \$34,423,914 in Airport Improvement Program grants since 1982; with \$9,387,814 of these grant monies coming from discretionary funds. \$6,995,155 in discretionary fund grants has been awarded to GNV in the last five years alone.

8. Question: Please clarify what, if any, other future FAA grant funding is at risk other than what I noted in question #7 and referenced in Mr. Chapman's e-mail to Mr. Schneider, kindly refer me to any written FAA rules, procedures or guidelines that the FAA has promulgated or have been mandated by Congress to guide you in making this determination.

Answer: If FAA felt that the City of Gainesville may have violated its Grant Assurance, the Agency would be required to issue a Notice of Investigation and hold hearings prior to suspending any passenger enplanement entitlement funds. However, FAA discretionary funding is awarded at the discretion of the Agency. As stated previously, FAA would consider the City's actions when making discretionary funding decisions.

9. Question: By approving residential land with the AIRPORT HAZARD ZONE CONDITIONS outlined in the background and facts on page two above, would GNV lose any existing FAA grant funds for projects other than that outlined in question #7 above?

Answer: Such actions are likely to only impact *future* FAA funding decisions, not existing (executed) grant awards.

10. Question: By approving residential land use with the AIRPORT HAZARD ZONE CONDITIONS outlined in the background and facts on page two above, would such action violate Grant Assurance 21 cited in your letter to Mr. Penska dated April 9, 2007? If so, kindly refer me to any written FAA rules, procedures or guidelines that the FAA has promulgated or have been mandated by Congress to guide you in making this determination.

Answer: Please note that FAA's concern is not with the City's approval of this application for development, but the change of zoning that is required for the development. In our April 9, 2007 letter, we stated a change of zoning *may* be a violation of Grant Assurance 21, Incompatible Land Use. As previously mentioned, a violation of a grant assurance may only be determined through a Notice of Investigation and subsequent hearings.

11. Question: If a party constructs new residential units within a 65 DNL noise contour on property not previously subject to any buy back or noise attenuation cost reimbursement provisions by the FAA and complies with 14 CFR Part 150 Appendix A, Table I, Note 1, which has been promulgated by the FAA and subsequently adopted by the City of Gainesville verbatim, by constructing the residential units to a 25 NLR standard, would GNV still be eligible to receive federal funding for such items as airport improvements? If not, why? If your answer is no or you cannot answer this question specifically, kindly provide the basis for your inability to specifically respond and direct me to someone who can.

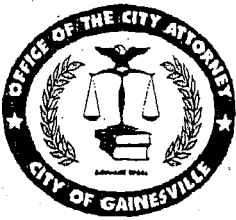
Answer: Because the development would be in conflict with the approved Part 150 study, FAA considers this development incompatible, and the change of zoning inconsistent with Grant Assurance 21. Again, if FAA felt that the City of Gainesville may have violated at Grant Assurance, the Agency would be required to issue a Notice of Investigation and hold hearings prior to suspending any passenger enplanement entitlement funds. However, FAA discretionary funding is awarded at the discretion of the Agency. As stated previously, FAA would consider the City's actions when making discretionary funding decisions.

12. Question: During your conversation with the City Manager and City Attorney on September 5, 2007, did you advise them with regard to local land use and zoning issues it is "fatally flawed" in that the project cannot be approved by the City Commission until the FAA accepts new noise contour maps and the City's ordinances are updated to reflect the newly adopted noise contour maps? Such a position would be inconsistent with the statements made by Mr. Chapman in his e-mail of August 10, 2007.

Answer: No. FAA recommended that the Airport Sponsor, at a minimum, update their Noise Exposure Map to see where the current 65 DNL contour lies in relation to this proposed development. City representatives were advised that it may be prudent to wait for new noise contour maps to make a decision on this development, as the noise contours may change with current airport operations data. If the FAA-accepted Noise Exposure Map for Gainesville Regional Airport did not illustrate the 65 DNL contour over the proposed development, FAA would have no grounds to formally object to the proposal. However, the City was also advised that even though an updated noise map may illustrate that the proposed development is outside of the 65 DNL contour, citizen complaints regarding airport noise can be generated from any areas surrounding the airport, not just those identified as lying within the 65 DNL contour. Therefore, FAA

would not recommend a residential development in such close proximity of the Gainesville Regional Airport.

CC: COOM
C/ATTY
C/MGR



MEMORANDUM

Office of the City Attorney

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

TO: Mayor and City Commission
Russ Blackburn, City Manager
Thomas Saunders, Director of Community
Development

DATE: April 12, 2007

FROM: Marion J. Radson, City Attorney

SUBJECT: Notice from the U.S. Department of Transportation, Federal Aviation
Administration regarding proposed development adjacent to Gainesville
Regional Airport

Attached is a letter from the Federal Aviation Administration (FAA) regarding a proposed development of a residential community near Hatchet Creek adjacent to the Gainesville Regional Airport. This letter is in response to a letter sent by the Director of Aviation dated April 3, 2007.

The FAA is notifying the City that the proposed development near the Gainesville Regional Airport would fall in an area impacted by airport noise. Specifically, the FAA states that the area appears to fall within the 65 DNL Contour of the airport's noise exposure map. The FAA also notifies the City of its obligations under the grant assurances that require the City to not cause or permit any change in land use, within its jurisdiction "... that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended." Additionally, the FAA "strongly advises against such a change in zoning".

I am advising the City Manager and the Director of Community Development to review any requested change in land use or zoning on this property in view of the matters addressed in the FAA's letter. Any change in land use would be a legislative matter, and any change in zoning would be a quasi-judicial matter, which decision ultimately rests with the City Commission. At this time this office does not express any opinion as to the merits of the FAA's assertions or recommendation.

MJR/afm

Attachment

cc: Kurt Lannon, Clerk of the Commission



U.S. Department
of Transportation
**Federal Aviation
Administration**

Orlando Airports District Office
5950 Hazeltine National Dr., Suite 400
Orlando, FL 32822-5003

Phone: (407) 812-6331

Fax: (407) 812-6978

April 9, 2007

Mr. Allan Penksa
Interim Chief Executive Officer
Gainesville Regional Airport
3880 N.E. 39th Ave., Ste A
Gainesville, FL 32609

RE: Proposed Land Use Change
Gainesville, Florida

Dear Mr. Penksa:

This letter is in response to your April 3, 2007 correspondence regarding the proposed development of a residential community, Hatchet Creek, adjacent to the Gainesville Regional Airport. We understand that this plan allows for up to 2,900 residential dwelling units to be constructed nearly 2,700 feet from the threshold of Runway 29.

In 1984, the Federal Aviation Administration (FAA) funded a Federal Aviation Regulation (FAR) Part 150 Noise Study through AIP grant number 3-12-0028-02. The results of this study are depicted in the Gainesville Regional Airport Noise Compatibility Plan, approved by FAA October 19, 1987. We have reviewed this document in comparison with the developer's plan, and we note that the proposed development would fall in an area impacted by airport noise. Specifically, the area appears to fall within the 65 DNL contour of the airport's noise exposure map.

We understand to facilitate this development, the City of Gainesville, co-sponsor of the Gainesville Regional Airport, would be required to change the land's existing zoning from industrial to residential. FAA would like to remind the City of Gainesville of their federal obligation to ensure compatible land use. In reference to the sponsor's responsibilities, Grant Assurance 21, Compatible Land Use, states:

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and taking off of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land

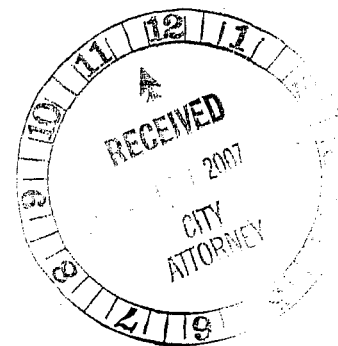


Exhibit B

Exhibit 7

*use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.**

*Emphasis added

Therefore, if the City of Gainesville, co-sponsor of the Gainesville Regional Airport, elects to make this change in zoning, FAA may find the City's actions to be in conflict with federal grant assurances, and future airport improvement program funding may be in jeopardy. Further, any noise mitigation measures required for residential properties constructed in this rezoned area would be ineligible for FAA funding.

Ultimately, the decision to facilitate this development lies in the hands of Gainesville City leaders. However, FAA strongly advises against such a change in zoning.

If you have any further questions on this matter, please feel free to contact me at (407) 812-6331, ext. 121.

Sincerely,

Original Signed By

Rebecca R. Henry
Program Manager
Planning and Compliance

cc: Roland Luster, FDOT/2
Marion Radson, Gainesville City Attorney
Russ Blackburn, Gainesville City Manager