

City of Gainesville

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



Meeting Agenda

June 16, 2008

6:00 PM

City Commission Special Meeting

City Hall Auditorium

City Commission

***Mayor Pegeen Hanrahan (At Large)
Mayor-Commissioner Pro Tem Jack Donovan (District 3)
Commissioner Thomas Hawkins (At Large)
Commissioner Jeanna Mastrodicasa (At Large)
Commissioner Scherwin Henry (District 1)
Commissioner Lauren Poe (District 2)
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.

ADOPTION OF THE AGENDA

AGENDA STATEMENT

"Citizens are encouraged to participate in City of Gainesville meetings. In general, speakers will be limited to 3 (three) minutes per agenda item. Additional time may be granted by the Mayor or by the City Commission as directed. The City of Gainesville encourages civility in public discourse and requests that speakers limit their comments to specific motions and direct their comments to the Chair. Signs or Props are not permitted in the meeting room. Citizens are encouraged to provide comments in writing to the Clerk of the Commission before meetings and/or during meetings for inclusion into the public record. Citizens may also provide input to individual commissioners via office visits, phone calls, letters and e-Mail, that will become public record. In some instances, i.e., Quasi-Judicial Hearings, these particular contacts may be prohibited.

ROLL CALL

CITY MANAGER

071219.

Gainesville Greens (B)

Explanation: In October 2004, the CRA and the City Commission authorized CRA staff to prepare and issue an RFP for a mixed-use development including residential and/or hotel space at City Parking Lot 10. The RFP was issued in June 2005 and received four responses. In September 2005 the responses were ranked, with Gainesville Greens receiving the top ranking from staff, DRAB, and the CRA. This ranking was largely based on the following factors: Gainesville Greens proposed more residential condominiums than any of the other respondents; Gainesville Greens proposed "green" building and affordable housing components not found in the other responses; Gainesville Greens requested 60% TIF over 15 years, while other respondents requested 80% TIF for 15 years.

By May 2006 a development agreement had not been signed; the developer addressed the CRA and requested a variety of proposed changes to the project. Citing unexpected cost increases, the developer requested fewer building stories, less affordable housing, and relaxed "green" building standards. At the request of the CRA, the developer coordinated with staff and returned at the June 2006 meeting to formally request revised incentives. At that time, the developer requested increased tax increment and a longer payment period, asking for 75% TIF reimbursement over a period of 20 years. Additionally, the developer requested a 29% reduction in the number of affordable units (each to be priced at \$200,000), a reduction in project size from 12 to 10 stories, and an increase in the amount of residential units from 134 to 144 condominiums. At the time, the second ranked respondent, AMJ, Inc., stated that it had no objections to the proposed changes to the Gainesville Greens project from that described in the original RFP response. The CRA approved these changes to the project, and in October 2006 a development agreement was executed.

On April 23, 2008, the City Commission approved the developer's request to

extend the option on City Lot 10 for a period not to exceed 12 months, ending June 17, 2008. Since that time, CRA staff has been in contact with the Gainesville Greens development team. The developer has recently provided two letters to the CRA on the subject (attached as backup). The first letter, dated April 28, 2008, refers to both the Supreme Court's decision in the Strand case and to changing market conditions. The developer states that these factors have made the proposed condo project extremely difficult to achieve. As the option on Lot 10 must be executed by June 17, 2008, the developer requested consideration of an 18-month extension to the option. Staff discussed the issue with the developer and with the CRA attorney, and informed the developer that because the development agreement for the Gainesville Greens project was executed prior to Strand, the court decision would not impact the status or legitimacy of the existing development agreement. The developer subsequently inquired about the possibility of a 6-month extension to the option.

At the May 19, 2008 CRA meeting, the CRA board discussed the developer's requests regarding both a 6-month extension, and a change in the project's residential component from owner-occupied condos to rental apartments. (Such a change would likely require the consent of the other respondents to the Lot 10 RFP, as well as a number of changes to the development agreement.) The CRA recommended that the City Commission approve a 6-month extension to the option, provided that the revised option agreement includes a schedule of specific benchmarks that the developer must meet by specified dates. The developer must achieve each benchmark according to schedule as a condition precedent to exercising the option. These benchmarks relate to planning, permitting, financing, and other requirements necessary to progress the proposed development to the implementation phase. The benchmarks include, among other things, an amended CRA development agreement addressing certain areas affected by the proposed changes in the project. CRA staff has coordinated with the developer and with City staff to construct this timeline. The proposed timeline would result in Gainesville Greens' construction beginning in December of this year and completing in December 2010. Should the developer fail to meet any of the specified benchmarks, the developer shall be in default of their option for City Parking Lot 10.

Fiscal Note: None at this time.

RECOMMENDATION

CRA to the City Commission: Consider the following alternatives:

Alternative Recommendation #1

1) Do not approve an extension to the option for City Parking Lot #10. Recommend the City or the CRA prepare and issue a new RFP for development at City Parking Lot #10.

Alternative Recommendation #2

1) Approve a 6-month extension to the option for City Parking Lot #10, provided that all of the respondents to RFP CRAX-050185-FP have waived objections to the amended option (which by reference includes the

necessary changes to the scope of the project and the terms of the development agreement), and the following additional conditions have been met:

2) As a condition precedent to the exercise of the option, require the developer agree to a reporting schedule to report its progress on a monthly basis on meeting deadlines for planning, financing, and permitting;

3) As a condition precedent to the exercise of the option, require the developer meet the requirements of the following project critical dates:

- a. 6/11/08 - Developer submit 13 sets of site plans to Planning Department for final review.*
- b. 7/31/08 - Developer submit 6 sets of finalized site plans for Planning Department to sign and stamp.*
- c. 8/15/08 - Final Site Plan approval.*
- d. 9/09/08 - Submit changes and PRC revisions to Building Department.*
- e. 8/06/08 - Revised Development Agreement.*
- f. 8/01/08 - Commitment letter of financing.*
- g. 10/30/08 - Letter of unconditional commitment.*

4) As a condition precedent to the exercise of the option, require the developer obtain binding loan approval for any financial contingency;

5) As a condition precedent to the option, require the execution of any necessary changes to the License Agreement for Use of Parking Garage between the developer and the City dated May 15, 2007, as well as to City's License Agreement for Use of Parking Garage and subsequent amendments thereto between the City and Kenneth R. McGurn and Linda C. McGurn;

6) As a condition precedent to the exercise of the option, require the developer execute an amended development agreement with the CRA which includes the following: an agreement on unit mix and number of units, amended timelines for project commencement and completion, a prohibition on "bedroom" leases, a covenant and guarantee that the units will be marketed and sold as condominiums within 10 years of project completion, affordable housing language be included to accommodate affordable rental units, covenants requiring the developer to build the project to condominium building standards, an agreement that the developer will provide total development costs to the CRA, an agreement that until the project is owner-occupied the developer will not assign any

interests or obligations other than collateral assignment required by lenders, a release of liability to the CRA regarding TIF payments, a modification of performance benchmarks to reflect that the developer (operating as landlord) will be in control of the property while units are being rented, a requirement that the developer will submit a revised financial analysis (including revised pro forma and "but for" gap) with required rate of return consistent with an income-producing asset; and

7) Authorize the City Manager and City Attorney to execute any and all necessary documents

Alternative Recommendation #3

1) Approve a 6-month extension to the option for City Parking Lot #10 with the understanding that the CRA would not provide TIF to a residential apartment project, and provided that all of the respondents to RFP CRAX-050185-FP have waived objections to the amended option (which by reference includes the necessary changes to the scope of the project and the terms of the development agreement), and provided that the following conditions be met:

2) As a condition precedent to the exercise of the option, require the developer agree to a reporting schedule to report its progress on a monthly basis on meeting deadlines for planning, financing, and permitting;

3) As a condition precedent to the exercise of the option, require the developer meet the requirements of the following project critical dates:

- a. 6/11/08 - Developer submit 13 sets of site plans to Planning Department for final review.*
- b. 7/31/08 - Developer submit 6 sets of finalized site plans for Planning Department to sign and stamp.*
- c. 8/15/08 - Final Site Plan approval.*
- d. 9/09/08 - Submit changes and PRC revisions to Building Department.*
- e. 8/06/08 - Revised Development Agreement.*
- f. 8/01/08 - Commitment letter of financing.*
- f. 10/30/08 - Letter of unconditional commitment.*

4) As a condition precedent to the exercise of the option, require the developer obtain binding loan approval for any financial contingency;

5) As a condition precedent to the option, require the

execution of any necessary changes to the License Agreement for Use of Parking Garage between the developer and the City dated May 15, 2007, as well as to City's License Agreement for Use of Parking Garage and subsequent amendments thereto between the City and Kenneth R. McGurn and Linda C. McGurn;

6) As a condition precedent to the exercise of the option, require the developer execute an amended development agreement with the CRA which includes the following: an agreement on unit mix and number of units, amended timelines for project commencement and completion, a prohibition on "bedroom" leases, a covenant and guarantee that the units will be marketed and sold as condominiums within 10 years of project completion, affordable housing language be included to accommodate affordable rental units, covenants requiring the developer to build the project to condominium building standards, a modification of performance benchmarks to reflect that the developer (operating as landlord) will be in control of the property while units are being rented

Alternative Recommendation #4

1) Approve a 6-month extension to the option for City Parking Lot #10, provided the project's use remain residential condominiums, as originally proposed, and require the following conditions be met:

2) As a condition precedent to the exercise of the option, require the developer agree to a reporting schedule to report its progress on a monthly basis on meeting deadlines for planning, financing, and permitting;

3) As a condition precedent to the exercise of the option, require the developer meet the requirements of the following project critical dates:

- a. 6/11/08 - Developer submit 13 sets of site plans to Planning Department for final review.*
- b. 7/31/08 - Developer submit 6 sets of finalized site plans for Planning Department to sign and stamp.*
- c. 8/15/08 - Final Site Plan approval.*
- d. 9/09/08 - Submit changes and PRC revisions to Building Department.*
- e. 8/06/08 - Revised Development Agreement.*
- f. 8/01/08 - Commitment letter of financing.*
- g. 10/30/08 - Letter of unconditional commitment.*

4) As a condition precedent to the exercise of the

option, require the developer obtain binding loan approval for any financial contingency;

5) As a condition precedent to the option, require the execution of any necessary changes to the License Agreement for Use of Parking Garage between the developer and the City dated May 15, 2007, as well as to City's License Agreement for Use of Parking Garage and subsequent amendments thereto between the City and Kenneth R. McGurn and Linda C. McGurn;

6) As a condition precedent to the exercise of the option, require the developer execute an amended development agreement with the CRA, reflecting changes to the commencement and completion dates for the project.

Legislative History

5/19/08	Community Redevelopment Agency	Approved as Amended (5 - 0 - 2 Absent)
6/9/08	City Commission	Approved as Recommended (7 - 0)
	071219_20080514.pdf	
	070219A_20080609.pdf	
	071219_200806161800.pdf	

ORDINANCES, 1ST READING - ROLL CALL REQUIRED

070210.

LAND USE CHANGE - HATCHET CREEK (B)

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

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

Explanation: PLANNING DEPARTMENT STAFF REPORT

As described in the background section below, the Petition as finally amended and approved by the City Commission on April 16, 2008, left several conditions to be further discussed by staff and the petitioner and reported back to the City Commission. Although there have been discussions and communications between staff and the petitioner, as of the date of publication of this

memorandum, staff and petitioner have not reached consensus on six conditions. The analysis and recommendation of staff regarding these six conditions is attached to this Memorandum as ATTACHMENT 1.

BACKGROUND

By way of background, this was a request to change the land use on approximately 498 acres in order to allow up to 1,499 residential dwelling units (80% or more age restricted), a maximum of 500 Assisted Living Facility (ALF) beds and up to 200,000 square feet of non-residential uses, including commercial and retail. The subject property surrounds the City of Gainesville's Ironwood Golf Course and is undeveloped. It is traversed by Little Hatchet Creek and its associated floodplains and contains forested wetlands and uplands. Surrounding uses include developed and undeveloped single-family residential land, GRU's Murphree water treatment plant and wellfield, undeveloped rural/agricultural land, a mobile home park and Gainesville Regional Airport across Waldo Road to the east. The amount of development on the subject property is limited due to development restrictions and constraints that include but are not limited to Airport Hazard Zoning Regulations, wetlands and surface water regulations, wellfield protection, floodplain, and concurrency requirements. Of particular impact on potential residential development is the Airport Noise Zone (applies to approximately 359 acres of the subject property), which prohibits residential development that is not compatible with the Gainesville Regional Airport's official 14CFR Part 150 Study (1986).

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

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

** Amend Condition S by adding the underlined language "a maximum of 2*

access points shall be allowed along NE 53rd Avenue unless additional access points are approved by Alachua County and the City of Gainesville, in accordance with the Alachua County Access Management Regulations";

** Amend Condition X by adding the underlined language "The developer shall be responsible for the costs of any new traffic signals that are warranted as a result of the development's site related impacts and the costs shall not be counted toward any required proportionate fair share contribution for transportation concurrency";*

** Allow Assisted Living Facility but leave the number of beds to be determined upon further analysis (certificate of need process);*

** Allow customary accessory uses exclusively for residents and their guests for an active adult community; and*

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

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

** The PUD would include the entire 500 acres;*

** Approve 1,199 residential units and the 300 ALF beds, reserving the right for the petitioner to come back before the Commission to request an additional 300 residential units;*

** No residential development or ALF beds allowed in the Airport Noise Zone;*

** No Residential development in the eastern portion of the PUD currently with the land use category of "Industrial" (approximately 199 acres), but directed the Airport Authority, the petitioner and City staff, including the City Attorney, to attempt to identify properties within the Industrial area that could have residential use and not adversely impact airport operations;*

** For any non-residential development within the portion of the land currently with the land use category of "Industrial", the only allowable uses shall be those permitted uses identified in the Industrial Zoning Ordinance or zoning category, as well as recreational facilities or lands, parks, open space, conservation, open space buffers, and mitigation areas, except as otherwise prohibited by the Airport Runway Clear Zone, Airport Height Notification Zone, or the Airport Noise Zone;*

** Approve Condition E, but ensure that the impacts to the wetlands that take place by the petitioner results in improvement to that area, and that would include the entire 500 acres;*

** For Conditions Q and S, that the Commission receive and review staff's standards as they bring those back, but also, that the petitioner work with staff to bring back the trip generation information that was requested by staff; and*

** In Condition Z-5 that the language would be as recommended by staff concerning the age makeup of the population (80% age 55 and older and 20% younger families); and*

CITY ATTORNEY MEMORANDUM

Florida Statutes set forth the procedure for adoption of an amendment to the

Comprehensive Plan. The first hearing is held at the transmittal stage and must be advertised seven days prior to the first public hearing. The second hearing will be held at the adoption stage of the ordinance and must be advertised five days before the adoption hearing.

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

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

RECOMMENDATION

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

Legislative History

10/22/07	City Commission	Continued (Petition) (7 - 0)
10/23/07	City Commission	Continued (Petition) (7 - 0)
10/29/07	City Commission	Approved City Plan Board's Recommendation with Conditions, as amended (4 - 3)
4/16/08	City Commission	Approved, as shown above - See Motion(s)
6/9/08	City Commission	Continued (1st Reading) (7 - 0)

070210_20071022.pdf
 070210a_20071022.pdf
 070210B_200710221300.pdf
 070210c_20071022.pdf
 070210d_20071022.pdf
 070210e_20071022.pdf
 070210f_20071022.pdf
 070210b_20071022.pdf
 070210_200804160600.pdf
 070210_20080416.pdf
 070210a_20080416.pdf
 070210b_20080609.pdf
 070210c_20080609.pdf
 070210_200806091300.pdf
 070210_20080616.pdf
 070210A_200806161800.pdf
 070210B_200806161800.pdf
 070210_200806161300.pdf

ADJOURNMENT