

Patrice Boyes
671068
4/14/2008

INDEX TO APPLICANT'S EXHIBITS
PETITION 76SUN-07DB
BLUES CREEK, UNIT 5, PHASES 2 AND 3

- I. Transcript of February 14, 2008 Development Review Board hearing, Petition 76SUB-07DB
- II. Exhibits attached to Transcript:
 - Exhibit 1 July 11, 2008 ACEPD letter to Bedez Massey, Planner, City of Gainesville
 - Exhibit 2 Alachua County Zoning Resolution Z-81-68 (PUD)
 - Exhibit 3 Easement dated August 7, 1981, O.R. Book 1371, Page 160, public records of Alachua County
 - Exhibit 4 Morris-Depew September 12, 2006, letter, and Affidavit of David W. Depew AICP, PhD., dated September 14, 2006.
 - Exhibit 5 Applicant's Power Point Presentation to DRB, February 14, 2008
- III. Excerpt of Gainesville City Commission Agenda , April 14, 2008
- IV. Applicant's Power Point for Gainesville City Commission hearing, April 14, 2008
- V. Blues Creek Development General Permit Number ERP05-0146 issued 9/2/2005 Suwannee River Water Management District
- VI. City of Gainesville Annexation Maps (2003) Blues Creek; four maps total

DEVELOPMENT REVIEW BOARD
GAINESVILLE, FLORIDA

ORIGINAL

City Hall Auditorium
200 East University Avenue
Gainesville, Florida
Thursday, February 14, 2008
8:30 p.m.

TRANSCRIPT OF DESIGN PLAT REVIEW

FOR BLUES CREEK DEVELOPMENT

Petition 076SUB-07DB

BOARD MEMBERS:

JAMES HIGMAN, Chairperson; JOSHUA SHATKIN,
Member; STEPHEN BOYES, Member; MONICA COOPER, Member;
CLAY SWEGER, Member; JEFFREY HAVILAND, Member.

AS REPORTED BY JACQUELINE MONSON

1 APPEARANCES:

2 PATRICE BOYES, ESQUIRE, 408 West University
3 Avenue, Suite PH, Gainesville, Florida 32601,
4 appearing on behalf of Blues Creek.

5 ALSO PRESENT: Lawrence Calderon, Staff
6 Bedez Massey, Staff
7 Mark Garland
8 Debbie Brady, Clerk
9 Ralph Hilliard Staff
10 David Depew
11 Sergio Reyes
12 Carl Salafrio

9	SPEAKERS	PAGE
10	Bede Massey	3
	Mark Garland	7
11	David Depew, Ph.D	18
	Sergio Reyes	20
12	Carl Salafrio	33
	David Depew, Ph.D	45

13

14

15

16

17 EXHIBITS OF THE PETITIONER

18	1 - Letter from Michael Drummond	45
19	2 - Zoning Resolution	49
20	3 - Easement	52
21	4 - Letter from Dr. Depew	55
22	5 - Power Point by Petitioner	56
23	6 - Maps	57

24

25

1 MR. HIGMAN: I'd like to bring this February
2 14th Development Review Board back to order. We
3 will now move to our last petition which is
4 07SUB-07DB, Eng, Denman & Associates, agent for
5 Blues Creek Development, design plat review for
6 Unit 5, Phase 2 and 3. Zoned planned development
7 located at the 7900 Block of Northwest 78th Road.

8 Ms. Massey?

9 MS. MASSEY: Thank you, Mr. Chair. Could we
10 please have the Power Point presentation for
11 Petition 76.

12 Mr. Chair, Members of the Board, this is a
13 request for design plat approval for 44 lots to
14 contain single-family dwellings within Unit 5 of
15 the Blues Creek Subdivision.

16 Shown on the screen is an aerial view of the
17 Blues Creek Subdivision located approximately south
18 of a new subdivision that is under construction,
19 Weschester, west of Northwest 43rd Street.

20 This property also abuts land zoned
21 agricultural that is located within Alachua County.
22 The Alachua County City limit lines also abut in
23 this area. (Indicating.) The area shown in red is
24 the proposed tract of land that is the subject of
25 this petition for the subdivision of the 44 lots.

1 Located in the far northwest corner is Phase 1
2 of Unit 5. The petition represents Phases 2 and 3
3 of Unit 5.

4 This map shows the Blues Creek Subdivision,
5 again, along with existing land use, which is
6 single family. The gray area shows the approximate
7 location of the tract of land to be subdivided into
8 the proposed 44 lots as Unit 5, Phases 2 and 3.

9 You can also see the land use designation on
10 surrounding property as well as an indication as to
11 what is considered within the City of Gainesville
12 versus what is considered to be within Alachua
13 County, as well as the county zoning and land use
14 designation.

15 This map shows the existing zoning designation
16 on the subject property. As you can see it is
17 zoned planned development. And it also shows the
18 zoning designation on the adjacent properties as
19 well.

20 The staff recommendation is that this petition
21 shall comply with all applicable regulations as
22 well as all adopted conditions and recommendations.

23 For the sake of the board members who were not
24 serving on the Development Review Board back in
25 September, 2006, this development came before this

1 board under a different petition number. That
2 petition number was 11SUB-06DB. It has a new
3 number because the applicant chose to return back
4 to the City Development Review Board for
5 reapplication of this design plat.

6 At this time I'd like to introduce to you
7 Mr. Mark Garland who is the cities' environmental
8 coordinator. He is serving as the cities'
9 environmental coordinator for the first time with
10 this project.

11 In 2006, as you might remember, the city was
12 under contract to the cities' Public Works
13 Department to have the Alachua County Environmental
14 Protection Department provide the city with
15 environmental expertise.

16 I, as a representative of the city planning
17 division, Mark Garland as a representative of the
18 City Public Works Department will serve as the
19 staff tonight for this petition. And we will be
20 here to answer any questions that you might have.

21 MR. HIGMAN: Ms. Massey, before you leave I'll
22 ask if anybody wants to ask you some questions
23 specifically about what you just said. If there is
24 no further questions --

25 MR. SHATKIN: Yeah, I have one.

1 MR. HIGMAN: Mr. Shatkin?

2 MR. SHATKIN: I see there is one for an
3 overall recommendation. We have a packet in front
4 of us. Is this packet approvable as submitted with
5 staff comment to that packet?

6 MS. MASSEY: It is the opinion based upon the
7 packet that you've received and the comment sheet
8 that you've received from the various departments
9 representing the cities' Technical Review Committee
10 that according to the planning division this
11 petition should not be approved. All the
12 departments, as indicated on this sheet, have a
13 different opinion based upon their jurisdiction in
14 terms of implementation of the land development
15 code and the comprehensive plan.

16 So what you have is an overall recommendation
17 from the City Technical Review Committee, but as a
18 member of the Technical Review Committee, the city
19 planning division is recommending disapproval.

20 MR. HIGMAN: Thank you for the explanation,
21 Ms. Massey.

22 MS. MASSEY: You're welcome.

23 MR. HIGMAN: Any other questions? If not,
24 Mr. Garland, if you would like to speak your piece
25 we're more than willing to listen to you, sir.

1 MR. GARLAND: Mr. Chairman, I wasn't expecting
2 to give a presentation so I'm ad libbing to --

3 MR. HIGMAN: You can be brief.

4 MR. GARLAND: I can be very brief here. And
5 if I can have the overhead, please.

6 MR. HIGMAN: Again, we heard your name, but if
7 you'd state it for the record.

8 MR. GARLAND: Yes. My name is Mark Garland,
9 I'm the environmental review coordinator for the
10 Department of Public Works.

11 This project involves two phases, Phase 2 and
12 Phase 3. The pictures that you just saw were
13 oriented with north this way, so I'll turn this
14 site plan so that north is to the top.

15 This is Phase 3, starting from this dashed
16 line and going down this little narrow neck here.
17 And my major environmental concerns is, reviewing
18 this plan, are with Phase 3. There are 25 lots
19 proposed for Phase 2. And I believe there are
20 eight lots proposed for Phase 3.

21 Phase 3 requires that a road avoid two
22 sinkhole wetlands and go through a high quality
23 upland hardwood forest.

24 The original proposal was to -- this is a
25 wetland here called Wetland B in the plan. The

1 original proposal from the applicant was to run
2 this road through the middle of this wetland. Now,
3 the major change with this proposal is to run the
4 road around the edge of this wetland impacting the
5 very edge of the wetland itself and well within the
6 35-foot minimum buffer that's required by city code
7 for avoidance of wetlands.

8 There is, in my opinion, a gap in our
9 wetland's code where our code does not speak to
10 what kind of mitigation is required if you do not
11 impact a wetland, but are within 35 feet of a
12 wetland. We say you can't get closer than 35 feet,
13 but we don't say what happens if you do.

14 So in this case the applicant has provided a
15 mitigation plan that addresses impacts to the
16 buffer as if they were impacts to the wetland
17 itself and has followed the state UMAM, Uniform
18 Mitigation Assessment Method, and has proposed
19 mitigation over here in an existing conservation
20 area and drainage easement.

21 This is a scraped area, a shallow scraped area
22 that is marshy right now. And up until today the
23 applicant was proposing expanding this scraped area
24 to make a larger marshy area. I personally do not
25 believe that's acceptable mitigation for impacts to

1 these wetlands. There is a second wetland here,
2 Wetland A.

3 These are relatively deep cone-shaped sinkhole
4 wetlands. They are forested with a mix of trees.
5 There's not much ground cover in them. And the
6 applicant is proposing to create in an upland here
7 a shallow flat-bottomed, originally marshy with a
8 lot of herbaceous plants in it. Today I received
9 updated mitigation plans from the environmental
10 consultant -- and I'm sure they can explain them in
11 more detail -- where they're proposing to plant
12 more trees in this area to make it more forested.
13 However, I still have a problem in that if you're
14 degrading the functions of these sinkhole wetlands
15 in some way -- and we don't really know what the
16 functions of these wetlands are, to tell you the
17 truth -- I feel certain that you're not recreating
18 whatever those functions were by this mitigation.

19 Now, there is another wrinkle here that in
20 2005 the Suwannee River Water Management District
21 gave this proposal -- actually the original
22 proposal with the impacts through the middle of the
23 wetland -- gave them a permit. So they do have a
24 permit from the Suwannee River Water Management
25 District for this mitigation. However, in my own

1 experience and talking to other environmental
2 professionals, you really can't recreate a
3 forested-sinkhole wetland at this time.

4 So they're proposing to create something
5 different. I don't really believe you have to
6 offset wetland impacts with the exact same kind of
7 wetland, but in this particular case I think this
8 does not offset the impacts to even the buffer of
9 these wetlands.

10 So my recommendation has always been, since I
11 first reviewed this project a year ago, that the
12 applicant take the 25 lots in Phase 2 and end the
13 road and don't worry about Phase 3, the additional
14 eight lots. It would make life easier for me and
15 everyone else environmentally speaking.

16 I hope that was short enough.

17 MR. HIGMAN: Thank you very much. Mr.
18 Shatkin?

19 MR. GARLAND: Excuse me. Thirty-six and eight
20 lots. Thirty-six in Phase 2 and eight in Phase 3.

21 MR. SHATKIN: Are there any environmental
22 issues in Phase 2 that --

23 MR. GARLAND: They are proposing running a
24 road through a small sinkhole wetland in Phase 2.

25 MR. SHATKIN: Can you show us that?

1 MR. GARLAND: Yeah. This doesn't show it, but
2 right around here is a small sinkhole. Actually I
3 don't believe it's a wetland, but it is a small
4 sinkhole that's proposed to be taken out with
5 construction of this road here.

6 There's a small wetland here and there was a
7 small --

8 MR. HIGMAN: Could you move it down a little
9 bit?

10 MR. GARLAND: There's a small wetland here.
11 There was a small wetland here. The other major
12 wetlands are this large central wetland of Blues
13 Creek which is down here. No road impacts are
14 proposed for these wetlands. And there is a
15 wetland along the western border here. And no
16 impacts are proposed to this wetland.

17 So overall there are many fewer impacts in
18 this larger phase than in the little long-narrow
19 tail in Phase 3.

20 MS. COOPER: Mr. Chair, let me ask: Why
21 wouldn't the wetland you spoke of putting the road
22 right through be shown -- I mean, obviously there's
23 probably not room now that the road is there -- why
24 wouldn't we have that delineated as well as the
25 wetlands?

1 MR. HIGMAN: Mr. Garland, I think she's --
2 Ms. Cooper, aren't you speaking about the sinkhole?

3 MS. COOPER: The sinkhole.

4 MR. GARLAND: The sinkhole right here.

5 MS. COOPER: Why wouldn't that be delineated?

6 MR. GARLAND: It is delineated on other plans
7 showing the topographic features.

8 MR. HIGMAN: And, Mr. Garland, did you not
9 state that was not a wetland, it was a sinkhole?

10 MR. GARLAND: Yeah, I don't believe it is
11 actually a wetland. I believe it's a sinkhole.

12 This is -- you can see it -- these contour
13 lines right here -- although probably have to zoom
14 in a little bit. Right in here, this shows the
15 location of the proposed road. And these closed
16 contours right around here show the location of the
17 sinkhole here.

18 MR. BOYES: Zoom in on that, please.

19 MR. HIGMAN: Could we zoom in on that just
20 little bit, please. Thank you very much.

21 MR. GARLAND: These are contour lines here.
22 These are one-foot contour intervals. And you see
23 that circular depression right there. And all
24 these little measly looking things, this happens to
25 be a tree survey, so these are noting locations of

1 trees. In case you're wondering what all those
2 little spots are.

3 MR. HIGMAN: Thank you, Mr. Garland. Further
4 questions?

5 MR. SHATKIN: Yes.

6 MR. HIGMAN: Mr. Shatkin?

7 MR. SHATKIN: So if this Phase 2 goes
8 through -- I'm just curious what you mean is that
9 you will have -- we're going to be building, I
10 assume, residence all around this, have an impact
11 of having a single-family residence. Some of the
12 woods we have 50-foot poplar and then you have your
13 septic line, so you'll have 60 feet from the
14 residence to the wetlands. Is there an issue of
15 that?

16 MR. GARLAND: Well, our code requires 50 feet
17 as a setback from wetlands. Obviously the larger
18 setbacks -- the larger the setback you have around
19 wetlands the better. And with isolated wetlands
20 such as this, the largest buffer is always the most
21 desirable.

22 In some studies that have isolated wetlands
23 scientists have recommended up to 200 feet. But
24 our code only requires 50 feet.

25 It's hard to say what would be an acceptable

1 buffer here. If you have a carefully planned
2 development, I think that 50 feet is not
3 necessarily bad, although the character of this
4 area will certainly be changing with residential
5 development.

6 MR. SHATKIN: So when you say -- what kind of
7 changes would happen to the wetlands by putting
8 this residence there?

9 MR. GARLAND: Well, whenever you have
10 development, especially residential development,
11 you're going to have one impervious surface in
12 areas, depending on the size of the houses and the
13 roads, it's going to change the runoff going into
14 that wetland. So these wetlands get some kind of
15 surface runoff right now. So you're changing the
16 surface flow. You're probably changing the amount
17 of duration of the flow. You're changing the
18 vegetation, which is probably more important, in my
19 opinion, in this area because you've got a mature
20 hardwood forest around these wetlands right now.
21 So you're going to be taking out some of that
22 forest, some amount of that forest for the
23 development, you're going to be clearing -- if it's
24 going to be a typical development, you're going to
25 have lawns around the houses, you're going to have

1 areas without trees now, so that, again, is going
2 to be changing the hydrology of the area to some
3 extent.

4 MR. HIGMAN: Thank you. Further questions?
5 If not, let me get you to characterize again -- you
6 said that it was a small amount of impact to the
7 wetland, but the applicant is deciding to offset
8 using the UMAM method, for not only the wetland,
9 but also the buffer; is that correct?

10 MR. GARLAND: That's correct.

11 MR. HIGMAN: Now, let's get to the heart of
12 the matter that I think the water management
13 district may have been looking at. Is the
14 mitigation for the impacts to the wetlands
15 satisfactory in your professional opinion?

16 MR. GARLAND: It's technically satisfactory in
17 that you get a number for impacts, this UMAM number
18 for impact and you're supposed to offset it with a
19 number for the mitigation, the improvements. So
20 you get a decrease in wetland function, which is
21 one number, the impact number and then you get an
22 increase in wetland function, which is the
23 mitigation number. And those are supposed to
24 offset or have a greater -- should have greater
25 mitigation than impact in an ideal world.

1 However, the question in my mind is not the
2 UMAM numbers. I won't argue that the numbers are
3 offsetting. The question in my mind is this
4 recreating anything, is this offsetting whatever
5 loss is happening from the removal of this buffer
6 around a wetland, around a forested-sinkhole
7 wetland. Is a flat-bottom marsh going to offset
8 that? By numbers, it may.

9 But let's say you permitted somebody to fill
10 up Devil's Millhopper. And then you offset that by
11 somehow increasing the size of Paynes Prairie. You
12 may have UMAM numbers that offset, but they're two
13 different things.

14 And in my opinion this is offsetting impacts
15 to one kind of wetland with creation of another
16 kind of wetland. And if you read the mitigation
17 rule which is 62-345.100 it says, This does not
18 replace any judgment of the appropriateness of the
19 mitigation.

20 And so my problem is with the appropriateness
21 of the mitigation, not with the offsetting of the
22 numbers.

23 MR. HIGMAN: Thank you. You explained that --
24 I know that you brought it to our attention the
25 whole issue of the impacts and buffers has been a

1 problem --

2 MR. GARLAND: Right.

3 MR. HIGMAN: -- and directed by the
4 development standards, but again, I think that the
5 applicant and you have understood may be a way
6 those can be --

7 MR. GARLAND: Right.

8 MR. HIGMAN: Again, I want to verify those.
9 In your professional opinion, which I think we all
10 respect, and you know I do personally, is different
11 than I think the Water Management District
12 regarding this impact, especially because the
13 impact that they identified and they received a
14 permit for is quite a bit more extensive than what
15 is being proposed now?

16 MR. GARLAND: That's true.

17 MR. HIGMAN: And so that may be we can even
18 say this is an avoidance of the impact that they
19 had been potentially there to start?

20 MR. GARLAND: This is certainly less of an
21 impact to the wetland itself than the original
22 plan, which was approved by the Water Management
23 District. However, it still extremely close to the
24 wetland and clips it in some extent.

25 MR. HIGMAN: Again, thank you. I think you

1 answered my questions and I hope it's been useful
2 in clarifying some things.

3 Again, we'll keep you here for the rest of the
4 evening in case we need your expert opinion.

5 MR. GARLAND: Thank you. My wife thanks you.

6 MR. HIGMAN: Thank you so much for your
7 presentation. I think now we'll have the applicant
8 speak to us.

9 DR. DEPEW: Good evening. My name is David
10 Depew. For the record, I am here representing
11 Blues Creek Development. With me tonight I also
12 have Sergio Reyes from Eng, Denman and Associates,
13 I have Carl Salafrio from Environmental Consulting
14 and Design and I have Patrice Boyes who is the
15 legal expert for this particular application.

16 I believe we have a Power Point presentation
17 back there, if we could get that brought up.

18 MR. HIGMAN: I hope our audio visual person
19 heard that we are asking for the Power Point
20 presentation the applicant provided.

21 (Technical difficulties.)

22 MR. HIGMAN: Is there anything that you can
23 move forward with to help us out.

24 DR. DEPEW: I can.

25 MR. HIGMAN: You're pretty aware of what's

1 going on.

2 DR. DEPEW: I am. And the board members who
3 have sat through this the last time we're going to
4 try to get it a little more compressed. My wife's
5 in Fort Myers so I'm not going to see her at all
6 tonight, it'll be tomorrow before I get to see her.

7 I'm going to just not try and hit on anything
8 other than -- technology. I'm not going to try and
9 hit on anything. You know, we can do this straight
10 from the overhead.

11 MR. HIGMAN: Let's go ahead and --

12 DR. DEPEW: There we are. There we go.
13 You've already seen where this is, but we've given
14 you a little bit larger aerial photograph to just
15 acquaint with what's happened here.

16 The kind of reddish haze area is the area that
17 is within the municipal boundaries of the city.
18 And this area here is the Phase 2 and 3 area that
19 we've been talking about. This area here in here
20 is the larger drainage easement that is part of the
21 original site plan.

22 The original site plan is important. This is
23 the original master plan. This property was
24 annexed. I'm going to come back after Mr. Salafrio
25 finishes addressing you and talk a little bit about

1 the history. Again, I'm going to try and compress
2 that as much as I can for those of you who have
3 heard that, but for those of you who have not heard
4 it will provide you a little bit of insight, I
5 think, into the very long history of this
6 particular project.

7 This is the area that we're talking about in
8 Phase 3 and this is the area up here that we're
9 talking about in Phase 2. The balance of this
10 project is developed substantially as you see it
11 there.

12 With that I'm going to let Mr. Reyes come up
13 and talk to you a little bit about the design of
14 the proposed development for Phase 2 and 3. And
15 then when he's done we're going to turn it over to
16 Mr. Salafrio. And then as I said, I will come
17 back.

18 MR. REYES: Good evening. Sergio Reyes, Eng,
19 Denman and Associates.

20 I'm going to try to respond to some of the
21 comments from the staff with respect to the design
22 plat, particularly the planning comments.
23 Hopefully everybody very familiar with the property
24 already.

25 Ms. Massey indicated this is the second time

1 we come on for this project in front of the board.
2 We have make several modifications and changes
3 since then. And David and Carl is going to explain
4 some of the modifications at the time.

5 Back to the comments, particularly the
6 planning comments.

7 Comment Number Two in planning comment, we
8 have discussed these comments extensively and it is
9 the determination -- and I'm glad that we got the
10 master planning here -- determination of the
11 proposed setback drainage easement in this
12 location. We plan to follow the master plan. Keep
13 in mind that the master plan is what decide the
14 overlay, how this is supposed to be developed, even
15 though it is concept in nature, so it can change.

16 The buffer, comment number two, is indication
17 of our drainage easement in these location. There
18 is no dimensions of the drainage easements in the
19 master plan. This project they have a -- on this
20 drawing they have very large scale, so it's not
21 very good to -- or very easy to determine the width
22 of that buffer -- I'm sorry -- the drainage
23 easement.

24 Originally we determined that it's supposed to
25 be 30 feet. Staff made the recommendation of 50.

1 We changed it to 50.

2 Then we go Comment Number 3. And Carl and
3 David is going to explain that a little bit more.
4 I want to explain it -- about Comment Number 3.
5 It's indication, again, related to this area in
6 particular, this area in here.

7 When we came to the CC and got approval for
8 the Unit 5, Phase 1, this area in here. Part of
9 the construction plans of that was a storm water
10 pipe going through that easement, that we were just
11 talking about. There is an area, a very small
12 area, they was showing us a wetlands area, at the
13 time of phase -- of the unified Phase 1, the city
14 staff, particularly the Public Works Department
15 approved the construction through that area and
16 storm water facilities, storm water pipe drainage
17 going on the way through the master drainage basin.
18 This is the master drainage basin for Blues Creek,
19 all 90 acres control all the runoff for Blues
20 Creek. So there is a pipe already in the ground
21 constructed, built. They were conserving Unit 5,
22 Phase 1.

23 So it starts right now, part of the original
24 plan of that unit -- we can show it at the time --
25 and the construction plans is approved by this

1 staff showed that by -- and that was constructed in
2 that way. So the comment is these mitigated -- is
3 these wetlands or is not, they make that comment to
4 the construction of the Unit 1 -- I'm sorry, Unit
5 5, Phase 1. So that was -- even though this is --
6 and Carl is going to tell that we are mitigating
7 that was done even before.

8 Comment Number 7 that, I speak to that subject
9 again -- represented in here we'll explain that a
10 little bit more.

11 Number Ten, talking about the sinkholes. On
12 this master plan also shows some of the areas of
13 the sinkhole. And we have this area in here. This
14 area determine sinkholes that they were determined
15 at the time. And, again, keep in mind these master
16 plan was developed in the county, it was developed
17 sometime ago.

18 Showing a little bit more detail. This is the
19 Phase 2, I refer to this sinkhole area. One of the
20 comments of our -- sinkhole area, again, we showed
21 the sinkhole area in this place. And if I come
22 back to the master plan, again, because it's
23 important to refer how they defined that sinkhole
24 area and how the configuration at the time it was
25 determined.

1 As you can see the edge of the lot and
2 actually you got in your packet, you look at the
3 detail, the lot itself it was encroaching in that
4 sinkhole. We worked hard with the staff, different
5 configurations. And, again, here it is. We put
6 the limits of the lot at the edge of the sinkhole.
7 Of course, there is a setback. So that comment --
8 I respond to that comment.

9 Comment Number 16. This is a comment, a
10 little bit of one of the comments from planning
11 they actually refer more to public works. The
12 final comment from planning indicated information
13 provided subject to review and approval of the City
14 Public Works Department. Even though they still
15 make the comment, public works, they make no
16 comment with respect to this, so something to keep
17 in mind.

18 We can probably go in more details and all
19 this flood compensation and other comments of
20 public works. All the public works comments, if
21 you look at the recommendation, approve subject to
22 the -- these comments -- we have met with public
23 works in several locations and these comments will
24 be respond to the comments at the time of the
25 construction plans. The site plat doesn't provide

1 -- or doesn't require to provide the detailed
2 information at this time to respond to these
3 comments. We are aware of the comments and we
4 actually agree with those comments from public
5 works. And we will be responding to those comments
6 during the construction phase of the process.

7 So now Carl.

8 MR. HIGMAN: Mr. Reyes, before you leave,
9 let's give a chance for the board to ask you a few
10 questions to clarify.

11 MR. REYES: Sure.

12 MR. HIGMAN: Anybody have anything? Mr.
13 Shatkin?

14 MR. SHATKIN: Not on that, but comments from
15 the fire department about the thousand-foot road.

16 MR. REYES: As you can see the City of
17 Gainesville doesn't have any code regulation that
18 limit the length of the roads. That's purely a
19 recommendation by the fire department. Even though
20 the second comment of the fire department indicated
21 the fire code required a second access on the
22 project.

23 Let me come back to the master zoning plan,
24 that is the guide for this project. If you look in
25 this area, at the end of this area there is a dash

1 line indicating a possible connection, emergency
2 connection, a possible connection. That's defined
3 in the master zoning plan where the recommendation
4 should be.

5 Right now our proposal is to serve -- the only
6 way to serve for sewer is going to this direction.
7 When we construct that sewer line, GRU, the
8 Regional Utilities is going to require established
9 roads for the sewer system. So that in effect it
10 will become a secondary access, emergency access to
11 the project for that end.

12 And it meet the requirements of the overall
13 layout of the master plan that was approved
14 originally.

15 MR. SHATKIN: Just a clarification on this. I
16 think that was brought up last time too.

17 Is there some kind of a creek or runoff -- I
18 see at the end of the page there it looks like the
19 wetland kinds of just phased out to the --

20 MR. REYES: This is the center line of the
21 creek. And the stone wall structure, very large
22 stonewall structure, a weir, a concrete weir
23 controlling the master basin. And the sewer, the
24 sanitary sewer is going to be run -- the proposed
25 sanitary sewer run in that area.

1 MR. SHATKIN: Does it go over the creek, it
2 goes under the creek?

3 MR. REYES: It goes under the creek.

4 MR. SHATKIN: It goes under the creek?

5 MR. REYES: Yes, it will go under the creek.

6 MR. HIGMAN: But your stabilized road will be
7 through the creek bottom; is that not correct?

8 MR. REYES: Yes.

9 MR. SHATKIN: So you'd have to put some kind
10 of pipe or something --

11 MR. REYES: No, the creek will be restored in
12 its existing conditions. Utilities impact over the
13 -- utilities impact over the creek is allowed by
14 code. Utilities extensions are allowed by code.

15 MR. HIGMAN: Mr. Reyes, if I may help. I
16 think you and I worked out there some years ago.
17 What you're saying is that you have a utility pipe
18 that will be buried below the level of the creek?

19 MR. REYES: That's correct.

20 MR. HIGMAN: Which in most of the cases that's
21 what we call a temporary impact when we have
22 construction occurring. But there is the potential
23 impact for that stabilized roadbed that will be
24 there primarily for maintenance of the pipe, if
25 necessary. And you're suggesting, if necessary, it

1 could be other access for emergency vehicles.

2 MR. REYES: Also we have the option to build a
3 secondary access over the existing overflow
4 structure, the concrete structure, it's already in
5 place.

6 MR. HIGMAN: Which is further downstream,
7 that's quite a substantial concrete --

8 MR. REYES: It's a fairly large structure. It
9 was build in the original design, the first phase
10 of the Blues Creek.

11 MR. HIGMAN: We usually think of weirs as
12 relatively small structures. This is what I'd call
13 a concrete dam, would that maybe -- as an engineer
14 you don't feel that way, but I've seen it, it's a
15 relatively large --

16 MR. REYES: It's a relative large structure.

17 MR. HIGMAN: And you're saying it can carry --
18 it's constructed sound enough that it can carry
19 emergency vehicles if necessary?

20 MR. REYES: It can be, yes. It can provide
21 access to --

22 MR. HIGMAN: Kind of a bridge rather than --

23 MR. REYES: Yes.

24 MR. HIGMAN: I know the area, but I'm trying
25 to get some of that understood by the board.

1 MR. REYES: If it requires, we can compact it
2 to have access through that location.

3 MR. SHATKIN: I'm still not clear. You have a
4 creek and you have to put some stabilized road area
5 over the creek?

6 MR. REYES: Let me come back again. The
7 sanitary sewer for serving the Phase 2 -- I'm
8 sorry -- the Phase 3 and part of the Phase 2
9 project, it will come from this location. It will
10 go through here and it go and serve and fill all
11 this point, the sanitary sewer.

12 I'm showing you the package in the master
13 utility plan. That's the reason, the master plan
14 at one time or another, have to put this location
15 in here. It's possible to provide a secondary
16 emergency access over the top of this sewer line.

17 MR. SHATKIN: That also crosses the creek,
18 correct?

19 MR. REYES: The creek on the -- yes, it will
20 cross the creek. The creek right now, today, the
21 existing creek is cut by the existing overflow
22 weir.

23 MR. SHATKIN: Okay.

24 MR. HIGMAN: Further questions? If not, Mr.
25 Reyes, I do have one.

1 MR. REYES: Yes, sir.

2 MR. HIGMAN: Planning has -- question number
3 five, which we talked about sidewalks and I know
4 that's nothing to do with the recommendation, but
5 its an engineering question.

6 MR. REYES: Yes. One of the comments that
7 we've been working through with the staff is show
8 the sidewalks in the design plat. We are proposing
9 sidewalks that require by code. We've been -- from
10 day one we've been proposing sidewalks and showing
11 sidewalks in the cross section, in the typical
12 cross section of the road, of the proposed road.
13 The staff felt that we need to show those sidewalks
14 in the actual plat. Again, we show them in the
15 latest set of drawings. They indicated they --
16 public works has to approve it. Again, public
17 works didn't make any comments about that in this
18 last set of comments.

19 MR. HIGMAN: I think that explains it. Thank
20 you very much.

21 Mr. Boyes?

22 MR. BOYES: Why are the eight lots worth
23 inclusion into the wetland buffer?

24 MR. REYES: I think that Mr. Depew and Carl
25 respond to that.

1 MR. HIGMAN: Anything else?

2 MR. BOYES: I want an answer to my question.

3 MR. HIGMAN: Well, I think we'll have that
4 with the rest of the presentation.

5 Any other questions to this individual as far
6 as -- Ms. Cooper?

7 MS. COOPER: No.

8 MR. HIGMAN: Mr. Shatkin?

9 MR. SHATKIN: No.

10 MR. HIGMAN: No more questions for this
11 individual, Mr. Reyes.

12 MR. REYES: Thank you.

13 MR. HIGMAN: We do have a question --

14 DR. DEPEW: I'm just going to let Mr. Salafrio
15 come up, but I just wanted to tell you -- Dave
16 Depew again, for the record.

17 We have no intention of constructing a road,
18 stabilized surface or otherwise through that
19 particular location. So I was completely shocked
20 that our engineer said, Well it could be done.
21 Well, yeah, it could be done. I mean, you know,
22 there's lots of things that can be done, but
23 there's no intention of providing a road through
24 there. Yes, there's the intention of providing
25 sewer facilities through there, utility structure

1 through there. And that will be under the creek.
2 But there is absolutely no intention of providing a
3 road, stabilized surface or otherwise through
4 there.

5 MR. HILLIARD: Can you answer Mr. Boyes'
6 question?

7 DR. DEPEW: Well, I can, but I'd rather let
8 Mr. Salafrio address it. I'll give you the short
9 answer to it. If you look at what's actually being
10 impacted along there, it's a tiny, tiny little
11 piece of the wetland and a portion of the wetland
12 buffer.

13 If you look at the actual element here on
14 Phase 2, you will see that we're not talking about
15 eight lots, we're talking about having to create a
16 turnaround back here, which is going to take out at
17 least two, possibly four lots. So now we're
18 talking about 12 lots. And what's happened here is
19 we've nibbled away and nibbled away and nibbled
20 away at this project to the point where it's no
21 longer economically viable if we now take another
22 12 lots away from it. And our request will then
23 be, Since you want to preserve it, please buy it.
24 And that will be the ultimate outcome of all of
25 that.

1 So at this point I will give you the short
2 answer by simply saying that we have provided
3 mitigation, we have really a miniscule impact on
4 wetland B right up in here, which you will see --
5 right in there it's a tiny, tiny little impact.
6 Yes, we hit the buffer. But we believe that using
7 a monoslope road and over techniques we can make
8 sure that this wetland is not impacted.

9 Now, that's the short answer. Let me get
10 Mr. Salafrio up here to give you a longer answer,
11 which I know you don't really want, but he'll be
12 brief. He'll be as brief as he can be.

13 MR. HIGMAN: He better be because I'll get him
14 later on this month.

15 MR. SALAFRIO: It's good to see you again, Mr.
16 Chair.

17 Carl Salafrio with Environmental Consulting
18 and Design. I'll attempt to answer that, I guess,
19 as I go through in the presentation I hope it will
20 become apparent.

21 Okay. We need to go back in time a little bit
22 because, you know I looked at this presentation
23 tonight and I said to myself we've been dealing
24 with this since June of 2004. Think about that.
25 That's like, you know, four years.

1 So this is where we started. We started off
2 with over two acres of wetland impact, 54 lots.
3 And, again, Mr. Garland is correct, originally we
4 were going to put the road right through the middle
5 of the wetland.

6 What we did through this process is we dealt
7 with the district, we dealt with staff. Now, at
8 this point we were still dealing with the county.
9 You didn't have your environmental coordinator yet.
10 So the pleasure was with the county here.

11 But, again, in August of 2004 we were looking
12 at 1.2 acres of wetland impact, 50 lots now.

13 In March of 2005 we went ahead and applied to
14 the Water Management District to mitigate for these
15 impacts. Now, what I want to make sure you guys
16 understand is that when we applied to the district,
17 we applied to the district for the wetland impacts
18 only. We didn't have to apply for a storm water
19 permits. Because, guess what, all the storm water
20 for this site goes to the drainage easement, not
21 the conservation area, not the conservation
22 easement, but the drainage easement.

23 So March 2005 we applied. At that point we
24 were at 1.2 acres of impact and at 50 lots. So
25 that's essentially what the design looked like at

1 that point. We moved on. More comments from the
2 city.

3 Now we're at September 2005, we received our
4 permit from the district. They felt like our
5 mitigation was adequate. Yes, one of the things
6 Mr. Garland was alluding to were secondary impacts.
7 As you may or may not be aware the district also
8 deals with secondary impacts.

9 At this point we're at .39 acres. Now we're
10 down to 45 lots.

11 January -- so then we go through January,
12 March, July, September, 2006. We keep revising
13 this plan and tweaking it and tweaking it and
14 tweaking it down, whittling it down and whittling
15 it down until we get to .3 acres of proposed
16 impact, 45 lots now.

17 We go further. It's still not acceptable. So
18 we said, Okay, let's keep on working.

19 We get to April and June of 2007, we send
20 another set of revised plans to the city. We're at
21 .0294 acres of wetland impacts.

22 Now, for everybody -- to put that in
23 perspective, you're sitting in a room that's
24 probably bigger than that.

25 Now, we're down to 44 lots. 18 percent,

1 almost 19 percent decrease in lots. 98 percent
2 decrease in wetland impacts.

3 Now, if this is not minimization and
4 avoidance, I don't know what is. I mean, we
5 minimized and avoided to the point where we can't
6 minimize and avoid any more. The next step is we
7 don't do the project.

8 Now, you can see from this slide right there
9 is that little tip we were talking about and right
10 here is the impact to wetland A.

11 Now, what Mr. Garland was also alluding to is
12 the city code, the city code does not deal with
13 impacts to buffers. So you can impact the wetland,
14 but you can't impact the buffer. So how do you
15 impact the wetland without impacting a buffer.
16 You've got to go through the buffer to get to the
17 wetland.

18 This is a synopsis of our district permit. We
19 received it in September of 2005. Again, at that
20 point we had .39 acres of wetland impact. The
21 district required .56 acres of mitigation. We
22 built -- we're willing to build 1.1 acres of
23 mitigation at this point. So we were going over
24 the top with the district as well.

25 This is our mitigation plan. And I need to

1 back up a little bit and go back to -- I'm going to
2 forget that because it's going to take too long.

3 This is our mitigation plan. Essentially what
4 this is is an area that was scraped down, it was a
5 loading area for basically for when they harvest
6 the trees. So I looked at this area as an
7 opportune place to provide the mitigation. Why did
8 I look here? Because your code requires me to look
9 within the subbasin where the impact occurs. Okay.
10 I can't go put it in Gilchrist County somewhere. I
11 can only put it in the subbasin. Well, guess what,
12 this subbasin is so small that I can't go find
13 alternative sites, there are no alternative sites.
14 And they're certainly no alternative site that the
15 applicant owns.

16 Now, what's another twist to this and, you
17 know, we could go on all night about this, there
18 was a mitigation plan on the table early on that
19 included some off-site mitigation. The city didn't
20 like that, the county didn't like that. We moved
21 off it. That's all I'm going to say about that.
22 We're willing to go off-site, but they didn't bite.
23 So we left that one alone.

24 Again, it includes enhancement, creation for a
25 total mitigation package in this location only --

1 and we got more, but just here -- of 1.74 acres.

2 Now, this cross section is a cross section
3 that Mr. Garland was alluding to that we did
4 change. I met with Mr. Garland, I think it was
5 probably what, three, four, five months ago,
6 something like that. And we talked about, you know
7 what else could we do to make this work. I offered
8 up some hardwoods in here instead of doing
9 herbaceous material, basically trees instead of
10 plants. So what he's got now in front of him is a
11 plan that includes, I believe, 283 additional trees
12 in this area.

13 MR. HIGMAN: So we're talking more of a swamp,
14 rather than a marsh?

15 MR. SALAFRIO: We're talking more of a
16 hardwood system than a marsh. And so that, in my
17 mind, alleviated the type-for-type issue that we
18 were dealing with.

19 Again, when you look at the UMAM, when you do
20 that UMAM calculation, you take into consideration
21 water quality, wildlife, position of the wetland in
22 the landscape. I mean, there's all kinds of
23 criteria that work into how you get to that number.

24 Well, whether anybody likes it or not that's the
25 system we're in. That's the way that mitigation is

1 done statewide. And UMAM is an accepted
2 methodology for how you do mitigation.

3 The drainage easement, we went around and
4 around on that big center wetland thing that you
5 saw on the first picture that Mr. Depew showed. We
6 keep going around and around with the city about
7 what is this thing. On the original plat it shows
8 it is a conservation and drainage area.

9 Well, what it is, it is a drainage area. It
10 was built specifically for storm water. How do we
11 know that? Because they put a gigantic concrete
12 weir on the end of it to hold all the storm water
13 back. So it was never intended to be a -- because
14 basically what they're saying is we're
15 double-dipping. We're already in a conservation
16 area or conservation easement, so how can we do the
17 mitigation in there. And the short answer is, it's
18 not a conservation easement, it's a drainage
19 easement. It's a recorded drainage easement.

20 And even if we were, we've done mitigation in
21 conservation areas in the past. You guys have
22 looked at that. Sorrento is a good example of
23 that.

24 Secondary impacts. In addition to dealing
25 with what I would consider already secondary

1 impacts, we're going to do some things along the
2 roadway that will help us buffer the roadway from
3 the wetlands, speed bumps, the wildlife crossing
4 signs. We're going to densely plant vegetation
5 around those crossings, so that the critters can
6 get access to an area where they can move across
7 the road.

8 We've done this exact thing in other
9 developments in the city and it's been acceptable.
10 And it was acceptable under the terms of when the
11 county was your consultant.

12 So again, this is actually a picture of -- and
13 I apologize, not a very good picture, but this is a
14 picture of Sorrento where we've done this type of
15 thing before.

16 And, again, what we're doing here is we're
17 compensating for what Mr. Garland was
18 articulating -- he didn't say it, but what it
19 really is is that secondary impact.

20 Success criteria. I'm not going to go through
21 this other than to tell you that we're going to
22 monitor it, we're going to make sure it's
23 successful. If it's not, we are tied to a Water
24 Management District permit and a city permit that
25 makes us go back and fix it.

1 Now, my professional opinion, in the site that
2 we're doing the mitigation, I've done thousands of
3 acres of mitigation in my career, this is a site
4 that's probably got a 99.9 percent chance of
5 working and not failing. We're not scraping down
6 an area where I don't think hydraulically it will
7 work. So I mean, I think we've got that comfort in
8 the plan where we've got the hydrology. If we do
9 the vegetation it should come back and be
10 acceptable mitigation. And the water management
11 district thinks it is.

12 I think this is just a summary. Total wetland
13 impact .0294. that's about 1200 -- what did we say
14 that was, 1200 square feet. 1280 square feet is
15 what that equates to.

16 Again, we're permitted right now with the
17 permit we have in hand to impact .39 acres of
18 wetlands.

19 The total mitigation, if you just look at the
20 bottom, provided mitigation for secondary impacts
21 and the 1.74, the area that we're talking about,
22 the scrape down area -- essentially what we're
23 giving the city and the water management district
24 is 2.65 acres back for an impact of 1200 square
25 feet.

1 That's all I have unless y'all have questions.

2 MR. HIGMAN: Mr. Shatkin?

3 MR. SHATKIN: The impacts that you have on the
4 wetlands, are they all in Phase 3 or are they
5 mostly impacted in Phase 2, after mitigation?

6 MR. SALAFRIO: Yeah. Actually -- and I was
7 going to get back to that. There was a small
8 little system in Phase 2 that was impacted -- it's
9 already built, essentially. I mean, you go out
10 there, it's built.

11 There was around-and-around discussion about
12 what -- EPD had sent us a letter or sent the
13 applicant a letter indicating that it was okay, we
14 thought it was okay to go ahead and do this and
15 there was some back and forth between us and the
16 city, Well, they didn't say it or they did say it.
17 So the bottom line was we went ahead and rolled
18 that -- if we were to go ahead and do that project
19 now in that amount of mitigation we went ahead and
20 rolled that into the mitigation we're doing.

21 So the mitigation that's in the scraped area
22 and the secondary impacts includes the little area
23 in Phase 2.

24 MR. SHATKIN: Can you show me the little area
25 in Phase 2 again?

1 MR. SALAFRIO: Yeah, I think I actually got --
2 I got a picture of it.

3 That's the little sinkhole area we're talking
4 about and I think this is the little -- I believe
5 this is the area we're talking about as far as the
6 impact. And essentially that little -- and, again,
7 I apologize for this drawing -- the little area
8 that's under the circle was a small relic feature
9 that was there and that's the area that's being --

10 MR. SHATKIN: Can you make it go back to the
11 last ten minutes and show me where it is on that?

12 MR. SALAFRIO: Yeah, it's not that one.
13 That's a little sinkhole.

14 MR. HIGMAN: The left is the area. Use your
15 red light on that. There you go. Thank you.

16 MR. GARLAND: That's not the impact you were
17 showing, is it? The impact that is down off of
18 that one.

19 MR. SALAFRIO: Let me go back to a blow up.
20 Where is this on here, that's what they want to
21 know.

22 MR. REYES: The impact that they are
23 describing is the unit -- Unit 5, Phase 1 is in
24 here, in this area. The sinkhole that we're
25 talking about is around this area in here, the

1 sinkhole. But the impact of Phase 2 would be right
2 there. Because right there the same impact that
3 you see here. This is Phase 1.

4 MR. SHATKIN: Okay. Thank you.

5 MR. SALAFRIO: One of the things they want me
6 to do is just to make sure we have the letter from
7 EPD dated July 11, 2001 in the record.

8 So I guess I'll provide that to the clerk.

9 MR. HIGMAN: That's the only one. Give it to
10 the clerk would be --

11 MR. SALAFRIO: Court reporter. Here you go.

12 MR. HIGMAN: For the record, we need to have
13 it. And, again, I'm sure you can provide the court
14 reporter with a copy of it. If you don't have it,
15 I don't know the law well enough, but you better
16 get it to our clerk.

17 MS. BOYES: Mr. Chair, Patrice Boyes for the
18 applicant. We'll provide a copy to the clerk.

19 MR. HIGMAN: Ms. Boyes, why can't you provide
20 it to the clerk tonight and provide the court
21 reporter the other copy later since they're working
22 for you.

23 MS. BOYES: We'd like to have it marked as
24 Exhibit 1 for the petitioner. And we'll have the
25 court reporter provide a copy to the city clerk,