



MEMORANDUM

Office of the City Attorney

TO: Mayor and City Commissioners **DATE:** September 19, 2007

FROM: City Attorney

SUBJECT: Land Use Change for Hatchet Creek development; Petition No. 23LUC-07PB

INTRODUCTION

The City Commission at its meeting of August 27, 2007, requested this Office provide a response to certain legal issues arising out of the Petition for land use change for the property located at approximately 2100 N.E. 39th Avenue commonly referred to as the Hatchet Creek development. In particular, this Office was asked to address who has the authority to permit residential development on the property, whether residential development is allowed within the airport noise contours, and to address the legal issues raised in correspondence from the City of Gainesville's noise consultant and the Petitioner's attorneys.

BACKGROUND

On March 12, 2007, the City Community Development Department received an application for a large-scale comprehensive plan amendment from East Gainesville Development Partners, LLC (the "Petitioner"). The application requested to change the future land use designation on approximately 498 acres, located at approximately 2100 N.E. 39th Avenue, west of Waldo Road, adjoining and surrounding the Ironwood Golf Course, and in close proximity to Gainesville Regional Airport (the "Property"), from Single Family, Industrial and Recreation to Planned Use District (see application and map attached as **Exhibit 1**.)

On July 11, the Petitioner submitted revisions to the Petition to the Community Development Department. The Petition was scheduled to be heard at the July 19 Plan Board meeting and City Planning staff submitted its report to the Plan Board members on July 13; however on July 16, legal counsel for the Petitioner requested the Petition be removed from the July 19 agenda (see email attached as **Exhibit 2**) "as a result of the unexpected content of the City's aviation professional recommendation and other matters."

On August 21, the Petitioner submitted further revisions to the City Planning division (see letter attached as **Exhibit 3**.) City Planning staff issued a staff report to the City Plan Board dated September 20 (a copy of which is attached as **Exhibit 4**) and the Petition is set to be heard at 8pm at the September 20 meeting of the City Plan Board.

LEGAL ISSUES

The following correspondence (collectively, the "Correspondence") has raised issues concerning the Petition:

- Letters dated April 2, 2007 and July 2, 2007 from Allan J. Penska, Interim CEO of Gainesville Regional Airport, copies of which are attached as **Exhibit 5**.
- Letter dated April 9, 2007 from Rebecca Henry, Program Manager for Planning and Compliance for the Federal Aviation Administration (the "FAA"), a copy of which is attached as **Exhibit 6**.
- Letter dated July 12, 2007 prepared by Ted Baldwin, Senior Vice President of Harris Miller Miller & Hanson Inc., an airport noise consultant retained by the City Planning division to review and provide an expert opinion on the noise related land use compatibility issues raised by the Petition due to the close proximity of the Property to the Airport. A copy of the letter is attached as **Exhibit 7**.
- Memorandum dated July 30, 2007 prepared by Linda Shelley and Karen A. Brodeen, attorneys with the firm of Fowler White Boggs Banker for the Petitioner. A copy of the Fowler White Memo is attached as **Exhibit 8**.
- Letter dated August 5, 2007 prepared by Mr. Baldwin in response to the Fowler White Memo. A copy of the letter is attached as **Exhibit 9**.
- Letter dated August 24, 2007 prepared by Mark A. Schneider, an attorney with the firm of Houck Anderson for the Petitioner. A copy of the letter is attached as **Exhibit 10**. In addition, Mr. Schneider sent a number of emails to City Attorney Marion Radson (the emails are not included herein, as they reiterate points of the August 24 letter.)

This Office has reviewed the Correspondence and identified legal issues that require response from this Office. In addition, this Office has discussed these issues with City planning staff and attorneys for the Petitioner both in person and via telephone on numerous occasions. The issues are identified and discussed under the headings below.

STATUS OF PETITION

The Petition is for a large-scale comprehensive plan amendment to change a future land use category and is therefore, a legislative matter. The decision to change a future land use category is to be made by the City Commission, upon review and recommendation of the City Plan Board and upon review and recommendation of the Florida Department of Community Affairs. The City Commission's decision should be guided by the City Comprehensive Plan 2000-2010 (the "Comp Plan,") the City's Land Development Code and other applicable legal and regulatory

authority, and should be supported by competent, substantial evidence. As of the publication of this memorandum, the City Plan Board has not yet held a hearing on the Petition. The first hearing is now scheduled for Thursday, September 20, 2007.

THE CITY COMPREHENSIVE PLAN

State law requires that development be consistent with the local comprehensive plan. Section 163.3161(5), F.S. (2006), states that “no public or private development shall be permitted except in conformity with comprehensive plans, or elements or portions thereof, prepared and adopted in conformity with this act.”

Of particular relevance to this Petition, Objective 9.2 (and related Policies 9.2.1, 9.2.2 and 9.2.3) of the Transportation Mobility Element of the Comp Plan states that the City will continue to eliminate incompatible land uses within airport noise contours and that the City’s Future Land Use Element shall designate compatible land uses within the vicinity of the airport. This Objective and other applicable Goals, Objectives and Policies of the Comp Plan are listed in Pages 14 through 20 of the City planning staff report attached as **Exhibit 4**. At this stage of review, the applicability of the Comp Plan and the designation of appropriate land uses on the Property is the main issue.

THE LAND DEVELOPMENT CODE

Chapter 163, Part II, F.S (2006), the “Local Government Comprehensive Planning and Land Development Regulation Act”, requires that the City’s Land Development Code be consistent with and implement the Comp Plan. Section 30-347 of Chapter 30, the “Land Development Code of the City of Gainesville,” states that “all development must comply with the airport hazard zoning regulations adopted by the city commission and set out in an appendix to this chapter.” This means the airport hazard zoning regulations do not apply until the development stage. In the context of this Petition for a land use change, these regulations are not technically applicable at this stage. They are, however, worthy of understanding and consideration because a land use change, and its subsequent zoning change, will establish permitted uses that may later be prohibited at the development stage because they do not comply with the airport hazard zoning regulations.

The Airport Hazard Zoning Regulations are set forth in Appendix F of the Land Development Code (“Appendix F,”) a copy of which is attached as **Exhibit 11**. Section II of Appendix F establishes three “airport zones of influence” to regulate land development in relation to the Gainesville Regional Airport. The three “airport zones of influence” are the (1) Airport Height Notification Zone, (2) Airport Runway Clear Zone; and (3) the Airport Noise Zone. Of particular relevance to the Petition is the Airport Noise Zone.

Section II.C. of Appendix F sets forth the Airport Noise Zone and Regulations. This Section establishes the Airport Noise Zone which consists of three noise subzones categorized by the approximate day/night average sound level (“Ldn”) of airport noise audible in that zone. The

higher the Ldn number, the higher the audible noise level. Subzone A overlays property within the 75 and higher Ldn (the "75Ldn,") Subzone B overlays property within the 70-74Ldn (the "70Ldn") and Subzone C overlays property within the 65-69Ldn (the "65Ldn"). The City adopted a map with the Appendix F Ordinance that depicts the 75Ldn, 70 Ldn and 65Ldn. A copy of the map is attached as **Exhibit 12**. The Property that is the subject of the Petition is located, in part, in the 65Ldn, 70 Ldn and 75Ldn, as depicted on the map attached as **Exhibit 13**.

Subsection II.C.2. of Appendix F states "[t]he provisions of this section shall apply to the construction, expansion, alteration, moving, repair, replacement, use and changes of use or occupancy of any occupied structure located within any Airport Noise Zone." As to use, this subsection lists Permitted Uses, Restricted Uses and Criteria and Prohibited Uses. Of particular relevance to this Petition is the Restricted Uses and Criteria because it lists, among other uses, "Residential" and "Homes for the Aged" (both of which are proposed for this development).

The Restricted Uses and Criteria state that such uses are permitted in the Airport Noise Zone only if: (1) the criteria are met, and (2) the development "is compatible with the Official 14 CFR Part 150 study." The first prong, the criteria, consists of the developer's commitment to provide certain insulation or utilize construction methods to reduce the level of the airport noise audible inside of the structure, or to provide avigation easements that have the effect of allowing the airport to operate at its current level of operations over the affected property. The second prong, proving compatibility with the Official 14 CFR Part 150 Study, is a matter of analyzing and applying the current Gainesville Regional Airport FAR Part 150 Study (March 1986) (the "Part 150 Study") to this Property. The written opinions provided by the City's airport noise consultant (attached as **Exhibits 7 and 9**) address this issue.

The Airport Noise Zone Regulations direct that residential development is prohibited if a developer cannot prove that its project meets both of the code requirements (the criteria and compatibility with the Part 150 study) at the time of development.

It has been suggested by the Petitioner in its correspondence (**Exhibits 8 and 10**) that satisfying the first prong (noise level reduction or easement) satisfies the second prong (compatibility); however, the plain language of the Airport Hazard Zoning Regulations states there are two distinct requirements and "Residential" and "Homes for the Aged" (among other uses) are permissible only if the development meets both prongs.

The Petitioner in its correspondence (**Exhibit 9**) maintains that attaining compatibility through indoor noise level reduction (e.g., insulation and building techniques) has been recognized and endorsed by the FAA as evidenced by Table 1 of Title 14, Chapter I, Part 150, Appendix A, of the Code of Federal Regulations, a copy of which is attached as **Exhibit 14**. In a recent phone conference, FAA staff has informed city staff that such an interpretation is overbroad and provided guidance on the FAA's intended use and applicability of Table 1. The FAA's guidance is discussed in detail below under the heading "FAA ISSUES."

NOISE CONTOURS

It should be noted that airport noise contours are dynamic and change over time as a result of aircraft technology and airport operations. Federal law and FAA regulations mandate the methodology that must be used to generate an official Noise Exposure Map ("NEM"). Airports also produce noise contour maps for planning purposes, such as for inclusion in an airport master plan, ("Airport Planning Maps"). Although the two types of maps use the same or similar computer modeling to predict noise exposure levels and identify noise contours, NEM's require a greater degree of public input and consultation, as well as review by the FAA. Article II.C. of Appendix F of the City Code requires the City to amend its Airport Noise Zone to reflect any changes in the documented noise levels.

The 1986 Part 150 Study contained NEM's for 1985 and 1990, copies of which are attached as **Exhibit 15**. In 1999, the City adopted an Airport Planning Map from the 1986 Airport Master Plan Update as Attachment 3 to Appendix F, attached as **Exhibit 12**.

In June 2006, the Airport adopted a new Airport Master Plan that contains Airport Planning Maps for 2003 and 2023, copies of which are attached as **Exhibit 16**. As would be expected, these maps differ from those contained in the 1986 Part 150 Study, the 1986 Airport Master Plan Update and the 1999 Attachment 3 to Appendix F.

In light of the more recent maps, as described above, City Staff has sought guidance from its airport noise consultant and from the FAA on which maps should be adopted to update Appendix F.

This in no way suggests or implies that the processing of the Petition must be tied to, conditioned or contingent upon the adoption of updated maps. It is the opinion of this Office that Appendix F requires the City to adopt the appropriate updated maps (and City Planning and Development staff is pursuing that issue); however, until that is done, any development should be reviewed in accordance with the current operative map adopted by the City for that purpose, which is the map attached as **Exhibit 12**.

FAA ISSUES

In view of conflicting information provided to the City from the Airport and the Petitioner concerning FAA grant funding, as well as uncertainty over which updated noise contour maps should be adopted, and to obtain familiarity with the FAA's general interpretation of uses compatible within airport noise zones, City staff, on the recommendation of its airport noise consultant, in early August arranged a conference call with the FAA.

On September 4, City Staff held a phone conference with Lindy McDowell, FAA Environmental Specialist and Rebecca Henry, FAA Program Manager for Planning and Compliance. The Petitioner's correspondence (**Exhibit 10**) asserted that an FAA staff person from Atlanta, Rusty Chapman, should participate in the conference call. City staff asked FAA staff if this was necessary or advisable. Ms. Henry responded that she and Mr. Chapman had discussed the

issues prior to the phone conference and “were on the same page” with the guidance that FAA would be providing in the phone conference.

During the phone conference, FAA staff advised the City that in updating the noise contour maps in its local code, the City should adopt NEM’s that have been reviewed for compliance by the FAA, as these are the only officially recognized maps for noise contour regulation purposes. City staff concurs with this position.

Further, the FAA stated that while they recognize the City as the local land use and zoning jurisdiction (see the asterisk * notation in Table 1 attached as **Exhibit 14**.) The City is also the Airport sponsor for purposes of accepting FAA grants for airport development and improvement. As such, Federal law requires that the City make certain assurances in connection with the Airport’s receipt of FAA grant funding for airport development, airport planning and noise compatibility. In particular, FAA staff discussed the applicability of grant assurance number 21. Compatible Land Use, a copy of which is attached as **Exhibit 17**. FAA staff reiterated the position expressed in its letter (**Exhibit 6**) that the “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.”

FAA also explained that as stated in Table 1 (attached as **Exhibit 14**) residential development in the 65Ldn and above is considered “not compatible and should be prohibited” (see Key in Table 1 attached as **Exhibit 14**.) Table 1 is intended to provide the FAA’s suggested mitigation measures “where the community determines that residential or school uses must be allowed” (see Note (1) in Table 1 attached as **Exhibit 14**.) The example provided by FAA staff is when a noise contour changes over time and affects existing residential structures; rather than require the purchase and demolition of the non-compatible structures, the FAA suggests a noise level reduction of at least 25 to 30 decibels. The FAA also pointed out that the “use of NLR criteria will not eliminate outdoor noise problems” (see last sentence in Note (1) of Table 1 attached as **Exhibit 14**.) This is consistent with the opinion provided by the City’s airport noise expert Mr. Baldwin attached as **Exhibit 9**.

Nothing in this opinion suggests or implies that the FAA has the authority to dictate land use, zoning or development decisions in and around the Airport. The City has the authority to make such local land use, zoning and development decisions as the City determines are in the best interest of the community. The FAA may determine, however, that those local decisions reduce compatibility with the Airport and render the Airport ineligible for FAA grant funding. The ultimate decision as to local land use, zoning and development lies with the City.

The guidance provided by the FAA staff in the September 4 conference call is consistent with the prior letter from Ms. Henry (**Exhibit 6**.) In addition, the guidance is also consistent with the FAA Southern Region guidance document entitled “Land Use Compatibility and Airports,” pertinent excerpts of which are attached as **Exhibit 18**.

CONCLUSION

The Petition is a request for a large-scale comprehensive plan amendment to amend the future land use map from Single-Family (up to 8 units per acre), Industrial and Recreation to Planned Unit Development. This land use change is a legislative matter to be decided by the City Commission applying the City Comp Plan and other relevant planning considerations that are supported by competent, substantial evidence. The basis for the City Commission's decision does not rest on whether a particular use is legal or illegal, nor is it a matter of legal argument or legal opinion. It is a matter of examining the current land use categories on the Property and determining whether it is appropriate to make the land use amendments requested by the Petitioner.



Nicolle M. Smith
Assistant City Attorney II



Marion J. Radson
City Attorney

cc: Russ Blackburn, City Manager
Erik Bredfeldt, Planning and Development Services Director
Ralph Hilliard, Planning Manager
Members of the City Plan Board (via email)
Robert Simensky, Petitioner (via email)
Ron Carpenter, Attorney for the Petitioner (via email)
Linda Shelley, Attorney for the Petitioner (via email)
Mark Schneider, Attorney for the Petitioner (via email)

Attachments

EXHIBIT 1



**APPLICATION—CITY PLAN BOARD
DEPARTMENT OF COMMUNITY DEVELOPMENT**

OFFICE USE ONLY			
Petition No. _____	Date _____	Fee: \$ _____	
Map No(s). _____	Receipt No. _____		
Staff Mtg. Date and Name: _____	EZ Area No. _____	EZ PD. _____	
Account No. 001-790-7920-3401 []			
Account No. 001-790-7920-1124 (Enterprise Zone) []			

Owner(s) of Record (please print)
Name: East Gainesville Development Partners LLC
Address: P.O. Box 5156 Gainesville, FL 32627-5156
Phone: (352) 222-7714 Fax: _____
(Additional owners may be listed at end of applic.)

Applicant(s)/Agent(s), if different
Name: Gerry Dedenbach, AICP, Causseaux & Ellington, Inc.
Address: 6011 NE 1 st Place Gainesville, FL 32607
Phone: (352) 331-1976 Fax: (352) 331-2476

Note: It is recommended that anyone intending to file a petition for amendments to the future land use map or zoning map atlas, meet with the Department of Community Development prior to filing the petition in order to discuss the proposed amendment and petition process. Failure to answer all questions will result in the application being returned to the applicant.

REQUEST

Check applicable request(s) below:		
Future Land Use Map <input checked="" type="checkbox"/>	Zoning Map <input type="checkbox"/>	Master Flood Control Map <input type="checkbox"/>
Present designation: See below	Present designation:	Other <input type="checkbox"/> Specify:
Requested designation: PUD	Requested designation:	

Present Future Land Use designation: Single Family, Industrial, and Recreation

INFORMATION ON PROPERTY
1. Street address: Approximately 2100 NE 39th Avenue
2. Map no(s): 3354, 3355, 3356, 3454, 3455, 3456, and 3555
3. Tax parcel no(s): 08160-001-000, 08160-001-001, 08160-002-000, 08160-004-000, 08160-004-001, 08169-000-000,
4. Size of property: +/- 498 _____ acre(s) 08197-006-000, & 08171-001-000
<i>All requests for a land use or zoning change for property of less than 3 acres are encouraged to submit a market analysis or assessment, at a minimum, justifying the need for the use and the population to be served. All proposals for property of 3 acres or more must be accompanied by a market analysis report.</i>

Certified Cashier's Receipt:

5. Legal description (attach as separate document, using the following guidelines):
- a. Submit on 8 1/2 x 11 in. sheet of paper, separate from any other information.
 - b. May not be included as part of a Purchase Agreement, Contract for Sale, Lease Agreement, Transfer of Title, Warranty Deed, Notice of Ad Valorem Taxes, Print-outs from Property Appraiser's Office, etc.
 - c. Must correctly describe the property being submitted for the petition.
 - d. Must fully describe directions, distances and angles. Examples are: North 20 deg. West 340 feet (not abbreviated as N 20 deg. W 340'); Right-of-Way (not abbreviated as R/W); Plat Book (not abbreviated as PB); Official Records Book 1, page 32 (not abbreviated as OR 1/32); Section 1, Township 9 South, Range 20 East (not abbreviated as S1-T9S-R20E).

6. **INFORMATION CONCERNING ALL REQUESTS FOR LAND USE AND/OR ZONING CHANGES** (NOTE: *All development associated with rezonings and/or land use changes must meet adopted level of service standards and is subject to applicable concurrency requirements.*)

A. What are the existing surrounding land uses? *

North *Public Facilities, Industrial, and Alachua County Rural/Agriculture*

South *Single Family, Recreation, and Industrial*

East *Public Facilities, Industrial, and Alachua County Industrial Manufacturing*

West *Commercial, Recreation, Single Family, Residential Low Density, Public Facilities*

** Note: City of Gainesville Land Uses unless otherwise noted.*

B. Are there other properties or vacant buildings within 1/2 mile of the site that have the proper land use and/or zoning for your intended use of this site?

NO X

YES ____ If yes, please explain why the other properties cannot accommodate the proposed use?

C. If the request involves nonresidential development adjacent to existing or future residential, what are the impacts of the proposed use of the property on the following:

Residential streets

Please see attached Supporting Documentation, Justification Report.

Noise and lighting

Please see attached Supporting Documentation, Justification Report.

D. Will the proposed use of the property be impacted by any creeks, lakes, wetlands, native vegetation, greenways, floodplains, or other environmental factors or by property adjacent to the subject property?

NO ____

YES X (If yes, please explain below)

Please see attached Supporting Documentation, Justification Report and Environmental Assessment.

E. Does this request involve either or both of the following?

a. Property in a historic district or property containing historic structures?

No, it is not.

b. Property with archaeological resources deemed significant by the State?

No, it is not. Please see attached Supporting Documentation, Archeological and Historical Survey.

F. Which of the following best describes the type of development pattern your development will promote? (please explain the impact of the proposed change on the community):

Redevelopment _____

Urban Infill X

Activity Center _____

Urban Fringe _____

Strip Commercial _____

Traditional Neighborhood _____

Explanation of how the proposed development will contribute to the community.

Please see attached Supporting Documentation, Justification Report.

G. What are the potential long-term economic benefits (wages, jobs & tax base)?

Please see attached Supporting Documentation, Market Analysis.

H. What impact will the proposed change have on level of service standards?

Roadways

Please see attached Supporting Documentation, Transportation Assessment.

Recreation

Please see attached Supporting Documentation, Justification Report.

Water and Wastewater

Please see attached Supporting Documentation, Justification Report.

Solid Waste

Please see attached Supporting Documentation, Justification Report.

Mass Transit

Please see attached Supporting Documentation, Justification Report.

I. Is the location of the proposed site accessible by transit, bikeways or pedestrian facilities?

NO _____

YES X (please explain)

Please see attached Supporting Documentation, Justification Report.

CERTIFICATION

The undersigned has read the above application and is familiar with the information submitted. It is agreed and understood that the undersigned will be held responsible for its accuracy. The undersigned hereby attests to the fact that the parcel number(s) and legal description(s) shown in questions 3 and 5 is/are the true and proper identification of the area for which the petition is being submitted. Signatures of all owners or their agent are required on this form. Signatures by other than the owner(s) will be accepted only with notarized proof of authorization by the owner(s).

Owner of Record	
Name: East Gainesville Development Partners LLC	
Address: P.O. Box 5156	
Gainesville, FL 32627-5156	
Phone: (352) 222-7714	Fax:
Signature: <i>Robert Simensky</i>	

Owner of Record	
Name:	
Address:	
Phone:	Fax:
Signature:	

Owner of Record	
Name:	
Address:	
Phone:	Fax:
Signature:	

Owner of Record	
Name:	
Address:	
Phone:	Fax:
Signature:	

No person submitting an application may rely upon any comment concerning a proposed amendment, or any expression of any nature about the proposal made by any participant, at the pre-application conference as a representation or implication that the proposal will be ultimately approved or rejected in any form.

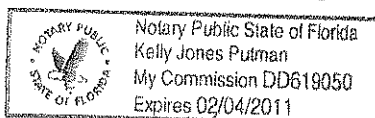
To meet with staff to discuss the proposal, please call (352) 334-5022 or 334-5023 for an appointment.

Robert Simensky
Owner/Agent Signature

March 5, 2007
Date

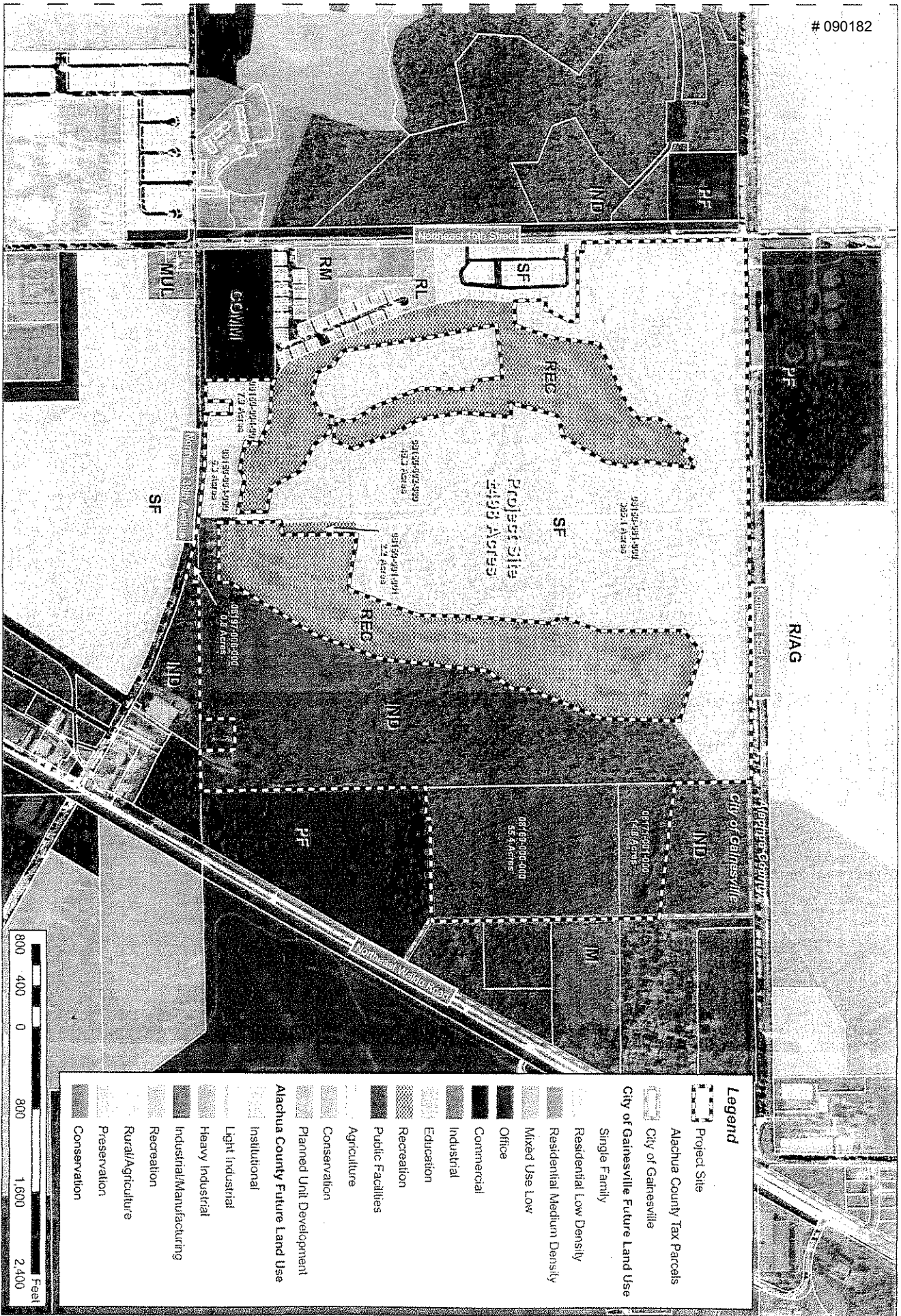
STATE OF FLORIDA
COUNTY OF *Alachua*

Sworn to and subscribed before me this 5th day of March 2007 by (Name)
Robert Simensky



Kelly Jones Putman
Signature—(Notary)Public

Personally Known OR Produced Identification _____ (Type) _____



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



**Hatchet Creek
Planned Use District**

CE Coussens & Ellington, Inc.
 geomatics • surveying • planning
 6821 142nd Place, Gainesville, Florida 32627
 Phone: 352.331.1996 Fax: 352.331.1977
 Email: info@ceandell.com
 Website: www.ceandell.com

Prepared by: Crystalynn Zou
 Job No: 04-0273-03
 Date: 02-28-07
 Projection: NAD 83, StatePlane
 Florida, North, FIPS 5003, Feet
 Lambert Conformal Conic
 GCS: North_American_1983
 datum: North_American_1983
 datum: North_American_1983



ILLUSTRATION 2A
 FUTURE LAND
 USE MAP

EXHIBIT 2


Mimms, Dean L.

From: Ron Carpenter [rcarpenter@raclaw.net]
Sent: Monday, July 16, 2007 10:28 AM
To: Hilliard, Ralph W.; Mimms, Dean L.
Subject: Plan Board Meeting 7-19

Ralph,

As a result of the unexpected content of the City's aviation professional recommendation and other matters, please remove us from the Thursday, July 19, 2007 Plan Board Agenda and any proposed continuance of that meeting. I will follow up with a letter.

Ron Carpenter
CARPENTER & ROSCOW, U.P.A.
5608 NW 43rd Street
Gainesville, FL 32653
(352) 373-7788
(352) 373-1114 fax

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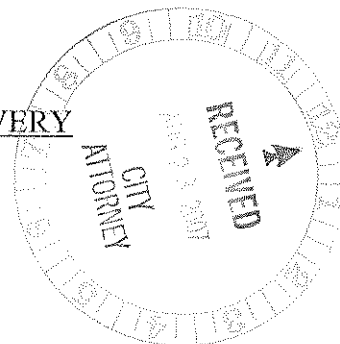
7/16/2007

EXHIBIT 3

CARPENTER & ROSCOW, P.A.

5608 NW 43rd STREET
GAINESVILLE, FLORIDA 32653-8334TELEPHONE
(352) 373-7788
FACSIMILE
(352) 373-1114RONALD A. CARPENTER
rcarpenter@raclaw.netJOHN F. ROSCOW, IV
roscow@raclaw.net

August 21, 2007

Dean Mimms, Chief of
Comprehensive Planning
City of GainesvilleVIA HAND DELIVERY

Re: Hatchet Creek

Dear Dean,

Please find enclosed sixteen (16) sets of the update to the Hatchet Creek PUD Application. The update consists of the following:

1. Updated PUD report, with revised Preliminary Conceptual Site Plan attached;
2. Updated Market and Needs Analysis from Fishkind & Associates;
3. Updated Fiscal Impact Analysis from Fishkind & Associates; and
4. Revised Traffic Impact Analysis from GMB Engineers & Planners.

The update reflects 1,500 age-restricted residential units, 500 ALF units, 100,000 square feet of Retail/Commercial space and 100,000 square feet of Office space. Included in the PUD Report update is an updated preliminary conceptual site plan, a section on the "uniqueness" of the project, a discussion of the amenity package contemplated for the development's residents and their guests (including security entrances), and "open storage" not included in the square footages listed above.

We would appreciate the opportunity to meet with you, prior to your releasing the staff recommendation to the Plan Board, so that we can work together with the goal of agreeing in advance to as much specific language as possible with respect to the PUD conditions.

Sincerely yours,

Ronald A. Carpenter

RAC/bw
Enclosures