

Quasi-Judicial Registration Form

Name: (please print) Alan & Katy Fischer (Calligraphy Collection)

Address: ~~██████~~ 2604 NW 74th Place

Telephone Number: 378-0748 or 375-8530 (352)

Please indicate whether you are for or against this petition: FOR ___ or AGAINST (mark "X")

Please indicate whether you are requesting a Formal Hearing: YES or NO ___ (mark "X")

Complete the following section of the form only if you are requesting a formal quasi-judicial hearing:

(Please refer to the enclosed Quasi-Judicial Hearing sheet contained in this mail-out for more information)

As an affected person receiving notice of the public hearing on Petition 30WSU-01 CC, I hereby request that the City Commission conduct a formal quasi-judicial hearing as described above.

Signature: Katy Fischer

This form and exhibits to be presented to the City Commission must be delivered to the Clerk of the Commission at least 7 days prior to the public hearing as stated in the notification letter sent to you. The Clerk of the Commission Office is located at City Hall, 1st floor, 200 East University Avenue, Gainesville, Florida. Forms may be mailed to the following address: Clerk of the Commission—Mail Station 19, Quasi-Judicial Hearing, Petition 30WSU-01 CC, P.O. Box 490, Gainesville, Florida, 32602.

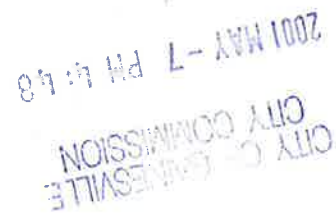
Attorney Information (If applicable):

Name: (please print) _____

Address: _____

Signature: _____

Telephone Number: _____



Quasi-Judicial Hearings

In 1993, the Florida Supreme Court, in the case of Board of County Commissioners of Brevard v. Snyder, held that an individual rezoning was a quasi-judicial act rather than a legislative act of a local governing body. As a result of this decision, the way that the City holds public hearings on individual land use actions such as rezonings, special use permits and site plans has changed dramatically. The City has established two types of quasi-judicial proceedings: informal and formal. The informal process, which is most widely used, includes a presentation by both City staff and the petitioner, followed by questions by the governing body, of staff and the petitioner. The next step in the process is public comment. During public comment, citizens may ask the governing body questions, and offer their testimony and opinions.

The formal quasi-judicial hearing is more like a trial court (an administrative hearing). All public testimony is taken under oath. Everyone testifying before the governing body is subject to cross-examination. All documents and exhibits that the governing body deems admissible is entered into evidence. The giving of opinion testimony is limited to expert witnesses, i.e., people whom the governing body finds have education or practiced experience in an area to be able to render an informed opinion on the subject. Finally, the closing arguments to the governing body are limited to the evidence presented. After hearing closing arguments for and against the petition the governing body receives public comment (5 min. per person maximum) and makes its decision to approve or deny the petition.

Whether informal or formal, decision makers, City Commission, Plan Board, and the Development Review Board are not allowed to discuss quasi-judicial matters outside of the meeting room with anyone. All discussions about petitions must occur during the hearing. The reason for this restriction is that ex parte contacts with decision makers are presumed to be prejudicial to the side not represented.

What is the meaning of quasi-judicial? Quasi-judicial: means somewhat like a trial process. Rezoning, special use permits and site plan approval applications, which have an impact on a limited number of persons or property owners, on identifiable parties and interests, where the decision is contingent on a fact or facts arrived at from distinct alternatives presented at the hearing, where the decision can be functionally viewed as policy application rather than policy setting, are considered quasi-judicial actions. (Source: Zoning Law and Practice After Brevard County v. Snyder, page 5.93)

Who determines if a quasi-judicial item will follow the formal or informal procedures? All quasi-judicial items are placed on the agenda as informal petitions, unless a formal hearing is requested by the petitioners or an affected party.

Who would be considered an affected party? All property owners who are entitled to actual written notice of the petition provided by the Community Development Department. A party who is not entitled to actual written notice, but who believes that he or she has a special interest or would suffer an injury distinct in kind and degree from that shared by the public at large, by the decision, may apply for affected party status by filling an application form with the Clerk of the Commission during regular business hours no less than 7 days prior to the meeting when the petition is scheduled to be heard. The request must be received by the clerk, during business hours. The decision making body will approve or deny the application prior to the start of the hearing.

How do you request a formal hearing? An affected party is automatically sent a registration form; others may request a form from the Department of Community Development. The form must be received by the Community Development Department no less than seven days prior to the public hearing for Special Use Permits and site plan approvals with all the evidence and documentation to support the affected party's or petitioner's position. For all rezoning petitions, the form must be received by the Clerk of the Commission no less than seven days prior to the City Commission public hearing on the petition.

I know that no one wants to pollute our air and water or make other people sick, but when I learned of the proximity and location of the proposed Yelvington Gravel/Watson Construction Asphalt plants in the NW I was compelled to learn more about the health impacts and consequences of this proposal.

What I found out is that the theory is to keep all the polluting industry together in one area. In Gainesville that area is the Northwest off 441 (13th Street). At one time that was the outskirts of town and there were few neighborhoods or businesses nearby that would be impacted by these decisions. But over time, residents and businesses have surrounded these areas and more are planned to be built.

1. In Gainesville a huge portion of the NW near 441 (13th St. and 34th Street and 53rd Avenue down to 74th Place is zoned I-2 Industrial. That I-2 zoning allows a lot of polluting industries which I-1 (light industry) would not permit. Though most industry in this community is light industry, the I-2 zoning permits heavy industry which contributes to a majority of the problem. It allows undesirable pollution without much protection to surrounding businesses and neighborhoods. That is why we are trying to get the City Commissioners to look at the zoning ordinances.

2. Our GRU Deerhaven power plant located at 441 and NW 43rd Street is contributing a great deal to decreased air quality in NW Gainesville.

There are other smaller companies that give off hazardous chemicals that contribute to the problem also located in the NW near the airport and further down 441. It all adds up, much more than I ever realized. The cement plant in Newberry didn't make things better.

3. I've learned that the Yelvington gravel plant which has already been permitted is being sued by a citizens group in Long Beach Mississippi because of health concerns, noise, decreased quality of life and decreased property values. Once the gravel plant was built, Long Beach made a rule in the industrial park that no Asphalt or Concrete plant would be allowed to protect the rest of the industrial park. They had I-1 zoning. The County commissioners wish they had never let the Gravel plant in.

A Yelvington gravel plant was denied permit in Gautier, Mississippi, due to public outcry.

Yelvington Industries also exists in Ocala, Florida. It moved into a residential neighborhood. The county commissioners have stated that they wish they had not let it in into Marion County.

In Avon Park, Florida, Yelvington has been contacted to stop developing a project there because he is also too close to residents.

The people who live near the plant feel it is not compatible with residential neighborhoods, their concerns are being ignored. They are not supposed to be getting sick....but they say they are. The dust and diesel fumes from the trucks are affecting them. Yelvington has a history of developing his plants too close to his neighbors without concerns for their complaints and that contributes to the problems.

4. Watson construction also has a history of opposition from Newberry officials and residents after they approved an "excavation and fill permit" in 1993. There were complaints and motor vehicle violations. They were also denied a permit for a construction debris landfill because they could not give the state environmental officials "reasonable assurances" about groundwater and drinking water protection. Last year on their property in NW Gainesville there was a fire that almost led to a fuel tank explosion.

What is it about these companies that cause local opposition in other communities once they are allowed to begin their operations? What is it about Gainesville that attracts these polluting industries that have problems elsewhere? Wasn't that how the White Asphalt plant came here in 1997?

5. A large amount of pollution is from cars and trucks, but diesel truck emissions are significantly higher than car emissions. I have seen information comparing a diesel truck to be equivalent to dozens of cars. Some even as much as 100-150 cars? That seems hard to believe, is that possible?

The compounds in diesel fuel and emissions contribute to serious health problems because of particulate matter PM10 and toxic fumes. Research links them to cancer, mortality, heart problems and lung disease. This is why the EPA has made drastic changes in what will be allowed from trucks, and the Supreme Court has upheld these changes, but they will not take

place for years. In the meantime the people in closest proximity to where the trucks travel are at the highest risk for health problems. Those of us living close to 43rd Street, 34th Street and 441 in the NW will be most at risk. Some houses are right on the road. Children, elderly, and people with weakened immune systems will be most affected. That is one of the reasons Turkey Creek, Northwood Oaks, Northwood Pines, Buck Bay, and the Northwest Neighborhood coalition are so concerned.

We have been told that 240 trucks a day will be driving next to our property. We are talking within 100-200 feet. Of that, 140 trucks will be transporting Asphalt. We have been told that we will probably be experiencing asphalt fumes and soot as well as diesel emissions. There are six other businesses in close proximity also.

I also have employees who are dealing with serious health issues already. I can not expose them to unnecessary risks. The only buffer will be a wall and some trees.

No other asphalt plant in Gainesville is this close to any place where people live or work as well as have 240 trucks to deal with. There will also be the silicon dust from the gravel plant. Is there anyway the dust, asphalt and diesel fumes could be contained?

Some things are being done, but not enough. People closest to asphalt fumes complain of feeling sick. That is why there is such controversy each time a plant like this is constructed.

6 The health and safety issues are my biggest concern. Even after we find problems with an industry, even though they may make us sick, we don't have the power to make them leave. We are stuck. We live with it or we leave.

Some people want to invite more polluting industry to the Gainesville.

Obviously they don't live on this side of town.

Obviously they don't work within 100 feet of the planned site.

7.. Other towns are experiencing growth also, but they are doing things to protect the environment and community before it hits the maximum hazardous level and they will be forced to make changes. They are more aware of the hazards and they are doing things proactively. Our county commissioners are working in this direction. Hopefully our city commissioners will also consider this.

When a company comes into Gainesville and changes the zoning, do we check the impact that they have made on other communities? Do we consider how much pollution will be part of the operation? Is the pollution of the diesel trucks an issue? How much more pollution can we add to what we already have before we will be experiencing serious health consequences.

In the past these things may not have been an issue, but the research is compelling now. Do we even have a right to look at those things?

8. The laws to protect the environment and the health of the people in this town are far behind what the research is telling us about the subject. I wasn't aware of the issues until they were forced upon me. I could understand how others would not see this as a problem, because it will not affect them so profoundly. But if no one else cares, then this project will take place. We will probably have to move.

If other industry like this comes, there is really nothing to stop them unless we address the zoning laws.

Even though these industrial plants are not yet here and no one else really has to imagine what it will be like, I was compelled to do the research. What I learned about Gainesville and this proposed plant really has me concerned, because I care about this community so much.

10. I learned that sometimes what we don't know, can hurt us.

Thank you,

Katy Fischer
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352-378-0748

