

EXHIBIT 4

City of Gainesville

Inter-Office Communication

Community Development Dept.
X5022, FAX x2282, Station 11

Item No. 5

TO: City Plan Board

Date: September 20, 2007

FROM: Planning Division Staff

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

Recommendation

Planning Division staff recommends:

1. denial of Petition 23LUC-07 PB with respect to changing the existing Industrial land use category to Planned Use District;
2. approval of Petition 23LUC-07 PB with respect to changing the existing Single-Family and Recreation land use categories to Planned Use District, subject to the conditions in Exhibit 1.

Explanation

This is a request to change the land use on approximately 498 acres in order to allow up to 1,500 dwelling units, a maximum 500-unit Assisted Living Facility (ALF), and up to 200,000 square feet of non-residential uses including commercial/retail, office, and outdoor storage facilities. The proposed land use change would allow the above-described non-residential uses and a 500-unit ALF where the current land use category is single-family, would replace approximately 199 acres of industrial land use with single-family and multi-family land use, and would allow commercial/retail and office uses not allowed by the current land use categories. The current industrial land use on the eastern portion of the subject property is a more appropriate designation than the proposed PUD due to proximity to the airport. Alachua County designated the property for industrial use when it was under county jurisdiction prior to annexation by the City of Gainesville in 2001. The City has sustained that designation by placing Industrial land use (and I-1 zoning) on the eastern portion of the property.

The approximately 498-acre subject property is bordered on the north by NE 53rd Avenue, on the south by NE 39th Avenue, on the west by unimproved NE 19th Street, and is proximate to Waldo Road (State Road 20) on the east. (See Exhibit 1 – Site Location Map.) The subject property surrounds the City of Gainesville's Ironwood Golf Course and is undeveloped. It is traversed by

Little Hatchet Creek and its associated floodplains, and contains forested wetlands, and uplands that are primarily flatwoods. Surrounding uses include developed and undeveloped single-family residential land, GRU's Murphree water treatment plant and wellfield, undeveloped rural/agricultural land, a mobile home park, and undeveloped and developed light industrial land. Gainesville Regional Airport is located across Waldo Road to the east.

The subject property is adjacent to: Public Facilities and Rural/Agricultural (Alachua County future land use category) to the north (across NE 53rd Avenue); Industrial, Industrial/Manufacturing (Alachua County category), and Public Facilities land use to the east; Public Facilities, Industrial, Recreation, and Single-Family (up to 8 units per acre) to the south; Single-Family, Residential Low-Density (up to 12 units per acre), Commercial, and Public Facilities land use to the west. The subject property is not within Plan East Gainesville, a non-regulatory plan that has been accepted by both City and County Commissions, but is adjacent to areas that are part of Plan East Gainesville.

The subject property presently has approximately 288 acres, with Single-Family future land use (which allows up to 8 units per acre) that is implemented by RSF-1 zoning (3.5 units/acre single-family residential district) for 274 acres, and by RSF-4 zoning (8 units/acre single-family residential district) for 14 acres. The maximum allowable number of dwelling units under the existing land use and zoning is 1,071 $[(274 \text{ ac} * 3.5 \text{ du/ac}) + (8 \text{ ac} * 14 \text{ du/ac}) = 1,071 \text{ du}]$, which is substantially less than the 1,500 dwelling units proposed by the applicant for the residential component of the proposed PUD, plus a 500-bed Assisted Living Facility. The current Development of Regional Impact residential threshold is 1,000 dwelling units. See discussion later in this report under *DRI status*.

The remainder of the subject property has approximately 199 acres of Industrial future land use that is implemented by I-1 zoning (Limited industrial district), and approximately two acres of Recreation future land use that is implemented by PS (Public services and operations district) zoning.

The amount of residential and non-residential development on the subject property is limited due to development restrictions and constraints that include but are not limited to airport hazard zoning regulations, wetlands and surface water regulations, wellfield protection, floodplain, and concurrency requirements. Of particular impact on potential residential development is the Airport Noise Zone (Exhibit 10 shows the 65, 70 and 75 Ldn contours and the impacted areas of Single-Family and Industrial land use), which, in combination with applicable Federal regulations, prohibits residential development that is not compatible with Gainesville Regional Airport's official 14 CFR Part 150 study (1986) and that is within the 65, 70 and 75 Ldn noise contours that apply to approximately 359 acres of the subject property. There are approximately 204.4 acres of Single Family land use and 154.6 acres of Industrial land use that are within the Airport Noise Zone. Only 84.2 acres of Single Family land use (and 44.12 acres of Industrial land use) are therefore not subject to the current, adopted boundaries of the Airport Noise Zone.

The proposed PUD designation would establish the land use for a future development consisting of up to 1,500 age-restricted (in accord with federal statutes, i.e., residents of age 55 years and above) residential units (single-family and multiple-family) and up to 200,000 square feet of non-residential uses (Exhibits 2-A, Hatchet Creek Planned Use District Report - Revised 8/21/07, page 7; Exhibit 2-B, Hatchet Creek Planned Use District Report - March 2007). Note: in the revised PUD Report, the applicant is now proposing that rather than all residential development be age-restricted, only one-third of the residential units would be subject to that requirement. However, the revised fiscal impact, market, and traffic impact analyses submitted with the revised PUD Report are for 100 per cent age-restricted residential units.

The proposed non-residential uses include up to 100,000 square feet of retail/commercial businesses and up to 100,000 square feet of office use; the other proposed non-residential uses are, supportive services, warehousing, eating establishments, civic uses, and places of religious assembly. Per the applicant's June 1, 2007 responses (Exhibit 2-C) to staff comments document, page 4, "light industrial refers to mini-warehousing or parking for recreational vehicles, boats on trailers, or other similar vehicles. While these uses would primarily be intended for the use of residents, the potential exists for public use." The current, Revised August 21, 2007 PUD Report from the applicant states on page no. 7 that the proposed non-residential uses, including "light industrial (for example boat and recreational vehicle storage)" will serve residents and non-residents of the proposed PUD. Future development is proposed to include recreational uses for the residents (per April 11, 2007 correspondence (Exhibit 3) from Ronald A. Carpenter, which states that: "The uses may include but not be limited to, a clubhouse, with a gym, grill room, library, computer center, etc., jogging, biking and golf cart trails, tennis courts, bocce courts, swimming pools, pickleball courts, cookout and picnic areas, etc.).

DRI status – The applicant received (Exhibit 4) a Binding Letter of Interpretation of Development of Regional Impact Status (BLID 03-2007-003, Hatchet Creek) on March 26, 2007 from the Florida Department of Community Affairs (DCA). The amount of development proposed in the BLID application (1,199 residential units; 175,000 square feet of retail space with no more than 940 parking spaces; and 60,000 square feet of office space) exceeds the Development of Regional Impact (DRI) thresholds for Residential Development (1,000 dwelling units is the threshold) and for Multi-Use Development (160 percent is the threshold, and the sum of the percentages for the proposed uses in the BLID application is 183.65 percent). The BLID states that DCA reviewed the representations made by the applicant and considered relevant comments made by the reviewing agencies. DCA found that the regional issues identified during the review of the binding letter application concern archaeological and historic resources, transportation, and adequate housing.

DCA found that the proposed Hatchet Creek development (amount and type of development proposed in the BLID application, which is considerably less than the amount of residential and office development proposed in the current PUD application, and does not include the 500 ALF units proposed in the current PUD application) will not have a significant impact upon state and regionally significant historic or archaeological resources. Although the development proposed in the BLID, based on the applicant's analysis, is projected to use 5 percent or more of the adopted LOS service volume on segments of various roadways, none of the affected regionally significant roadway segments are proposed to be operating below the adopted level of service standard. DCA therefore found that the project proposed in the BLID will not have a significant impact on regionally significant roadways. With respect to adequate housing, DCA found that the development proposed in the BLID will not have a significant impact upon the ability of the development's very low, low, and moderate income employees to find reasonably adequate housing.

DCA concluded in the BLID that the proposed Hatchet Creek development (for 1,199 residential units; 175,000 square feet of retail space with no more than 940 parking spaces; and 60,000 square feet of office space) will not have significant impacts on regionally significant resources or facilities, and therefore concluded that the proposed development is not required to undergo DRI review. The determination in the Binding Letter regarding DRI status will expire and become void on March 26, 2010. Issuance of the Binding Letter does not obviate the need to comply with all other applicable federal, state or local government permitting procedures.

The proposed (revised 8/21/07) PUD is a request for considerably more residential (1,500 units, plus 500 ALF units, compared to 1,199 residential units) and office development (100,000 square feet, compared to 60,000 square feet) than is described in the BLID. The proposed PUD

development substantially exceeds the applicable DRI thresholds for residential (150 percent of the 1,000-unit residential threshold) and multi-use development (208 percent compared to the 160 percent threshold for three or more uses). The 208 percent total is the sum of 150 percent (residential), 25 percent of the 400,000 square foot retail threshold, and 33 percent of the 300,000 square foot office threshold. City staff agrees with the applicant that a BLID is not an application for development approval, that it confers no development rights, and that it informs an applicant (and local government development review entities) about the DRI status of a potential development. However, the DRI status will be extremely relevant at the time of application for rezoning to PD (Planned development) district zoning, should the PUD be approved. The PD ordinance is what implements an approved PUD, and a proposed PD that exceeds applicable DRI thresholds could not proceed without the proposed PD having undergone the lengthy DRI review and approval process.

Airport – Gainesville Regional Airport has expressed considerable concern about compatibility of the proposed PUD with the airport. Airport compatibility is discussed in the next section of this report under *Compatibility with surrounding land uses*.

Consistency with Planned Use District Future Land Use Category

The Planned Use District is defined in Policy 4.1.1 of the Future Land Use Element of the 2000-2010 comprehensive plan as follows: “This category is an overlay land use district which may be applied on any specific property in the City. The land use regulations pertaining to this overlay district shall be adopted by ordinance in conjunction with an amendment to the Future Land Use Map of this comprehensive plan. The category is created to allow the consideration of unique, innovative or narrowly construed land use proposals that because of the specificity of the land use regulations can be found to be compatible with the character of the surrounding land uses and environmental conditions of the subject land. This district allows a mix of residential and non-residential uses and/or unique design features which might otherwise not be allowed in the underlying land use category. This category shall allow traditional neighborhoods on sites 16 acres or larger in conformance with the adopted Traditional Neighborhood Development (TND) ordinance. Each adopting PUD overlay land use designation shall address density and intensity, permitted uses, access by car, foot, bicycle, and transit, trip generation and trip capture, environmental features and, when necessary, buffering of adjacent uses. Planned Development zoning shall be required to implement any specific development plan under a PUD. In the event that the overlay district has been applied to a site and no planned development zoning has found approval by action of the City Commission within 18 months of the land use designation, the overlay land use district shall be deemed null and void and the overlay land use category shall be removed from the Future Land Use Map, leaving the original and underlying land use in place.”

Evaluation of applicable provisions of the Planned Use District to the proposed PUD follows.

Unique, innovative or narrowly construed land use proposal:

The proposed PUD is for a residential and non-residential project that the applicant describes as a mixed-use project. Development of this undeveloped site at an appropriate density and intensity level should help further the development and redevelopment vision within Plan East

Gainesville, even though the subject property is not within (but it is adjacent to) the Plan East Gainesville boundaries.

Although the PUD does propose an age-restricted (for a minimum of 33 percent of the dwelling units) residential community with considerable recreation opportunities and is unique in this respect, the residential and non-residential components, as proposed, are poorly integrated and lack connectivity. The PUD is not obviously pedestrian-oriented nor is it obviously mixed-use. One-quarter mile is a benchmark distance beyond which most people will chose to drive rather than walk, and the commercial components are considerably further than one-quarter mile from most of the residential areas. With one partial exception, as proposed by the applicant most of the non-residential areas (other than the Amenity area that is proposed for accessory uses accessory to residential uses) are neither integrated with nor connected to the residential areas. (The partial exception is the area designated Commercial/Office along NE 39th Avenue, which is connected by internal roadway to the golf course and indirectly to the area designated Multi-Family in the southeast corner of the proposed PUD.) The proposed Commercial/Office area along NE 53rd Avenue has no internal roadway connection to the PUD. The westernmost Commercial/Office area along NE 53rd Avenue shows an internal roadway connection only to the Assisted Living Facility, and like the other Commercial/Office area along NE 53rd Avenue, it is otherwise entirely segregated from residential areas and connects only to NE 53rd Avenue. See Preliminary Conceptual Site Plan) in revised PUD report (Exhibit 2-A).

The applicant has made no clear commitment to unique design elements in the PUD application, but did state (page 4 of the revised PUD Report, Exhibit 2-A) that “while individual sections of the project may incorporate unique design elements, Hatchet Creek will incorporate overall design elements which unify the project site. The elements may include architectural façades, landscaping, streetscapes, or signage.”

Compatibility with surrounding land uses:

Airport - One of the major issues to be addressed by the land use petition is whether the Industrial land use (shown on the Future Land Use Map) should be changed to PUD to allow residential use. It is staff's opinion that the current Industrial land use designation, unlike the proposed residential use, is appropriate and it is compatible with the operation of Gainesville Regional Airport. Information received from the City's airport consultant (Exhibit 7), from the Florida Department of Transportation (Exhibit 8 - letter from FDOT Aviation Manager), and from Gainesville Regional Airport (Exhibits 9-A, 9-B and 9-C) support staff's position.

Gainesville Regional Airport has expressed great concern about the proposed PUD, almost all of which is within the Airport Noise Zone (Exhibit 10 shows the 65, 70 and 75 Ldn contours and the impacted areas of Single-Family and Industrial land use). The Airport is particularly concerned about the residential component of the PUD. In the letter of April 2, 2007 (Exhibit 9-A) from Airport CEO Allan Penksa to City Manager Russ Blackburn, Mr. Penksa stated that “the plan for the Hatchet Creek development confirms my worst fears, as it shows high density residential units within the current R-1 and I-1 districts, directly beneath short final approach to the airport's main commercial service runway. The housing is adjacent to the airport clear zone;

the absolute nearest a structure can be to the runway end. Aircraft on final approach to Runway 11 will overfly portions of this development at altitudes of less than 150 feet... This will be noisy, unnerving to many residents of the proposed development, and is not in the best interest of safety." Further in the letter, he expressed concerns about noise: "while it may be technically feasible to allow residences within the city's 65 Ldn noise contours by requiring special sound insulating measures during construction, it is naïve to believe that this will satisfy residents over time... Many residents purchasing homes in this development will not realize the full impact aircraft noise has on their lives until after the sale. Increases in airport activity and changes to flight schedules will be seen by some as changing the conditions of the sale and something to be resisted and compensated for." Mr. Penksa noted that in a 1994 judgment in which the City was forced to pay \$1.4 m to four property owners beneath the eastern approach to the airport (Edward Foster, et al v City of Gainesville, Case No. 88-2556-CA); "those properties were in the City's airport noise zones and were... farther from the runway threshold than some of the homes proposed in the proposed Hatchet Creek development."

Mr. Penksa added that "there is no other piece of private land within the City of Gainesville or Alachua County upon which residential development will have greater negative consequences for our airport. Also, there are precious few areas left within the city that are suitable for industrial development. Preserving industrial lands near the airport makes good sense. The airport is compatible with the existing golf course and industrial plants."

The City and County have signed numerous Federal Aviation Agency (FAA) grant agreements for projects at the airport. One of the Federal Grant Assurances requires the city to "take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities compatible with normal airport operations, including landing and taking off of aircraft. The attached letter (Exhibit 11) from the FAA dated April 9, 2007 cautions that "if the City of Gainesville, co-sponsor of Gainesville Regional Airport, elects to make this change in zoning [land use], [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 in this rezoned area would be ineligible for FAA funding... FAA strongly advises against such a change in zoning [land use]". This information was reaffirmed by the FAA in a telephone conference with City staff on September 5, 2007.

In the letter of May 10, 2007 (Exhibit 12) on behalf of the Aircraft Owners and Pilots Association to Mayor Hanrahan, Senior Liaison John L. Collins reiterates some of the concerns expressed above by Airport CEO Allan Penksa. He notes that the Airport's "projected development costs through 2011 of \$18,208,188 ... may be in jeopardy." He noted that the City has "control methods in place that conform to both Federal and State standards for ensuring compatible land use", and urges the City to "maintain these and continue to insist that only compatible land uses near the airport will be considered."

Based on recommendations of the City's legal staff and aviation consultant, FDOT, and the FAA, the areas within the 65, 70 and 75 Ldn noise contours cannot be developed for residential use.

The proposed Commercial/Office areas along NE 53rd Avenue should be relocated to the southeast (SE) quadrant of the site (which is the quadrant that is most impacted by the Airport Noise Zone). Such relocation would also open up areas that are not affected by the Airport Noise Zone for potential residential development. The map entitled Maximum Building Heights (Exhibit 13) is based on the Airport Height Notification Zone map, and shows that the maximum building heights attainable without being considered a "potential airport obstruction" (which requires either an Airport Obstruction Permit or an Airport Obstruction Variance) are less in the SE quadrant (where they range from approximately 20 feet to approximately 50 feet). This height range would likely have less impact on non-residential uses than on residential uses, about which the Airport has expressed considerable concern. It is staff's opinion that it is inappropriate to change from the compatible Industrial land use to residential use.

Wellfield - Potential impacts on the Murphree Wellfield could be reduced by moving all proposed non-residential development out of the Primary Protection Zone and further from NE 53rd Avenue. (See *Wellfield Protection* under *Compatibility with environmental conditions*.) The Commercial/Office areas along NE 53rd Avenue need to be shifted to an interior location in the proposed PUD and connected to residential and other uses by an interior roadway system. They should be shifted out of the primary wellfield protection area and into the less sensitive secondary wellfield protection area.

Compatibility with environmental conditions:

This site is a 498-acre area of flatwoods and cypress-gum swamps around the Ironwood Golf Course. Most of the subject property is within the Significant Ecological Communities Overlay zoning district (see explanation below, in 4. *Minimization of impacts to the highest-quality uplands on the site*). Branches of Little Hatchet Creek cross the site. All have been channelized in the 1960's, according to the applicant's environmental inventory report. The northern branch crosses the northern part of the site from NW 15th Street to the eastern boundary; the central branch receives water from the Ironwood Golf Course and flows east to join the southern branch near the southeast corner of the site; and the southern branch flows northeast along the eastern border of the site. Large drainage ditches also flow into these channelized creeks.

The applicant's environmental consultant has identified 85 wetlands on the site, totaling 90 acres. The largest wetland on the site is a 39-acre cypress swamp in the northwest corner, north of the northern branch of Little Hatchet Creek. Many of the remainder are severely drained swamps with a canopy of pond cypress, red maple, water oak, black gum, and slash pine. Numerous wetlands are adjacent to the site on the west, north, and south. A 50-foot average buffer is required around wetlands; along streams, at least a 35-foot buffer with a presumption that development closer than 150 feet is detrimental to the stream.

The upland soils on the site are largely mapped in the Pomona, Wauchula, Newnan, and Pelham series. These are poorly drained soils of flatwoods. The hydric soils of the site are mapped as Surrency sand, Pomona sand, depressional, Montechoa loamy sand, and Samsula muck. These are very poorly drained soils of depressional areas and wetlands. Most of the hydric soils are

mapped in the north half of the site, but there are two areas of hydric soils along the southern boundary.

The upland communities on the site are largely flatwoods with a canopy of slash pine and a groundcover of saw palmetto. There is a slash-pine plantation on the eastern part of the site. The wetland communities are largely cypress-gum swamps in various states of drainage. The large areas of flatwoods in fairly good condition are significant in that they are unusual within the city limits of Gainesville. They have also not been subject to intensive forestry practices, as have the flatwoods to the north in the Murphree wellfield. The remnant sandhill is significant for its diverse groundcover and its gopher-tortoise habitat, again unusual within the city limits. The wetlands, in their current severely drained condition, are not significant for listed species or general wildlife habitat.

Gopher tortoise burrows and gopher tortoises themselves are known from the remnant sandhill on the site. According to Michael Drummond of Alachua County EPD, variable-leaf crownbeard may occur on site. Other listed species that use flatwoods, sandhills, and swamps are possible, such as flatwoods salamander, eastern indigo snake, short-tailed snake, eastern diamondback rattlesnake, Florida pine snake, and Sherman's fox squirrel.

No wells are known from the site. No karst features are known, nor are they expected in this region of Alachua County, where the limestones of the Floridan aquifer are confined by the clays of the overlying Hawthorn group. The property is nearly level, lying around 165 feet above sea level and dropping to less than 155 feet above sea level along the southern branch of Little Hatchet Creek on the eastern part of the site.

The applicant has provided a survey of historical and archaeological resources. The survey found no historical resources on the site and three archaeological sites of minor significance, perhaps all representing short-term campsites.

The applicant's preliminary conceptual site plan locates residential areas throughout the site, among wetland areas/upland preserves. With the information provided, however, it is unclear whether this conceptual plan addresses these six major concerns. In particular, it will be helpful for reviewers if the applicant outlines the highest-quality uplands and wetlands on the site.

After a site visit on March 28, 2007, the City's Environmental Coordinator had three specific comments about the conceptual plan. First, it appears that a good-quality area of flatwoods, sandhills, and drained swamps extends from the northeast part of the golf course east to the pine plantation. This area includes the known gopher-tortoise burrows on the site. The conceptual plan appears to avoid part of this area, but puts residential areas in other parts of this area. The applicant should note the boundaries of this higher-quality area so that proposed impacts to it can be reviewed.

Second, commercial/office areas are proposed along 53rd Avenue directly across from the Murphree wellfield, and apparently in and near some higher-quality wetlands. The applicant should consider removing these commercial/office areas.

The subject property is within the headwaters area of Little Hatchet Creek (Exhibit 14, Regulated Creeks, Lakes and Wetlands map), is within the Primary and Secondary Wellfield Protection Zones (Exhibit 15, Wellfield Protection Zones map), and is in the highest (greater than 12 inches per year) category designated by the St. Johns River Water Management District for recharge of the Floridan Aquifer (Exhibit 16, Floridan Aquifer Recharge map).

There are **at least six major environmental issues** that must be addressed in planning development for this site (as identified by the City's Environmental Coordinator):

1. Protection of the water quality of Little Hatchet Creek. Channelized branches of Little Hatchet Creek flow through the site, across Waldo Road to the Gainesville Regional Airport, and into Newnan's Lake. Little Hatchet Creek contributes two nutrients, nitrogen and phosphorus, to Newnan's Lake. Because of high levels of such nutrients, the lake is now the most eutrophic lake in Florida, surpassing Lake Apopka (Carol Lippincott, St. Johns River Water Management District, personal communication). Development of this area has the potential to increase the levels of nitrogen and phosphorus in the upper reaches of Little Hatchet Creek, further degrading Newnan's Lake.

Moreover, Newnan's Lake and all of its tributaries are subject to a Total Maximum Daily Load (TMDL) restriction on nutrients, and in the future the city may be required to reduce the levels of nutrients in Little Hatchet Creek. Development of this area will increase the expense of this reduction. In view of this potential expense, this project should be required to meet the strictest standards of low-impact development; in particular, the applicant should preserve larger buffers around creeks and wetlands than those required in the Gainesville land development regulations (more than 150 feet from creeks and more than 50 feet around wetlands), and should restrict the use of fertilizer and pesticides to the greatest extent possible, by such means as requiring xeriscaping and sharply restricting the use of turfgrasses.

2. Protection of the Murphree Wellfield, which lies just to the north of the site. The northern part of the site lies within the primary wellfield protection zone and the rest of the site is in the secondary wellfield protection zone. In fact, several of the city's wells and the Murphree Water Treatment Plant lie directly across NE 53rd Avenue from this project. Development of this area has the potential to affect the groundwater below the site, and perhaps eventually the Floridan Aquifer from which the city draws its drinking water. The most obvious way to reduce the potential for impacts to groundwater here is to restrict the intensity of development, perhaps by clustering development outside the primary wellfield protection zone and preserving large undeveloped areas within the primary zone. The proposed commercial developments along NE 53rd Avenue should be eliminated.

3. Minimization of impacts to the habitat of listed species. The applicant has provided an environmental survey of the site that reports 8 burrows of gopher tortoise (*Gopherus polyphemus*), most in a degraded sandhill on the northeastern part of the site. Rare species that live in tortoise burrows, like eastern indigo snake (*Pituophis melanoleucus mugitus*), probably also occur. Two rare plants, variable-leaf crownbeard (*Verbesina heterophylla*) and giant orchid (*Pteroglossaspis ecristata*), may also occur in the flatwoods on site. Development should be planned around these rare species to the greatest extent possible. In particular, the applicant should preserve and restore the area identified as sandhill (FLUCCS code 412) in the northeastern part of the site. Restoration of any upland habitat on this site will require prescribed burning, subject to the approval of Gainesville Regional Airport.

4. Minimization of impacts to the highest-quality uplands on the site. This site lies within the Significant Ecological Communities overlay zoning district (sect. 30-309, Gainesville Code of Ordinances). See Exhibit 17 - Significant Ecological Communities Overlay map. The applicant will be required to prepare an environmental inventory as a condition for development approval on the site. As part of this inventory, the highest-quality uplands on the site should be delineated and any development within these high-quality areas should be restricted.

5. Minimization of impacts to the wetlands on the site. Most of the wetlands on the site have been affected by drainage. Nevertheless, they should be protected by wide buffers to preserve the pre-development water quality of the area (see above - 1. Protection of the water quality of Little Hatchet Creek). Filling of wetlands should not be allowed... The applicant should also consider improving the hydrology of the drained wetlands on site through such measures as ditch blocks.

6. Protection of connectivity of wetlands and uplands throughout the site. One way of preserving the ecological health of a site is to ensure that natural plant communities are connected throughout the site. In this way, wildlife will be able to move from one area to another with less disturbance from developed areas, and the plant communities themselves, both wetland and upland, have a better chance of surviving the effects of development. Here the applicant should preserve areas of undeveloped uplands that connect wetlands, particularly the better-quality wetlands.

Because of significant environmental constraints, the city should limit the intensity of development as outlined above. The applicant has made no apparent efforts to minimize impervious surfaces in the proposed PUD. Substantial reductions in impervious surfaces in this environmentally sensitive, Hatchet Creek area could be obtained by limiting non-residential development to the amount described in the BLID letter. The applicant has not committed to minimizing wetland impacts. The Conceptual Environmental Resource Permit ERP permit application (portions of which are attached - Exhibits 19-A & 19-B)) demonstrates that the applicant proposes approximately 150 acres of impervious area, and is seeking Conceptual ERP permit approval to impact 18.5 acres of wetlands or other surface waters.

Wellfield Protection - The subject property is located in the Primary and Secondary Wellfield Protection Zones (Exhibit 15, map), and therefore existing and future development on the property will be subject to the wellfield protection requirements of the land development code.

A Wellfield Protection Special Use Permit is required for a wide range of uses in the Wellfield Protection Zones. Potential impacts to the groundwater that is the source of the City's potable water supply that is pumped and treated at the Murphree Wellfield, could be reduced by moving all proposed non-residential development out of the Primary Protection Zone and further from NE 53rd Avenue. GRU stated on 8/30/07 that this development lies within the secondary and primary well field zones and that it would have to comply with the wellfield protection code. No deep excavations, wells or septic tanks will be allowed, and if there are wells and septic tanks that do exist or other forms of contamination, they will need to be properly abandoned.

Floodplain - The subject property has 100-year FEMA floodplain considerations (Exhibit 20, map). A base flood elevation must be determined for all portions of the site that are affected by the floodplain. It should be expected that significant fill quantities will be required to elevate the site to meet minimum FEMA criteria for structures proposed within the floodplain and to keep dedicated storm sewer systems appropriately above seasonal high groundwater tables. Letters of Map Amendments will be required for all modifications to the existing 100-Year FEMA Floodplain.

The City's Environmental Coordinator provided further comments dated 8/31/07 (Exhibit 18-A) and 6/5/07 (Exhibit 18-B). Comments from the City Arborist regard various environmental concerns pertaining to the subject property, and are attached (Exhibit 21). Also attached are two letters (one dated 6/13/07 (Exhibit 22-A) to the Gainesville Plan Board, and one dated 4/2/07 (Exhibit 22-B) to Gainesville Mayor Pegeen Hanrahan and Executive Director Kirby Green, St. John's Water Management District) from Mr. Robert Hutchinson that expresses his concern about the potential detrimental impacts of future development of the Hatchet Creek PUD site upon the water quality of Newnan's Lake, into which Little Hatchet Creek flows.

Density and intensity of land uses:

Density and intensity for the PUD are generally described in the revised Hatchet Creek PUD Report dated August 21, 2007 (Exhibit 2-A, page 7). The proposed PUD includes a substantial increase in the maximum number of residential units (1,500 proposed where 1,071 are allowed by the existing land use and RSF-1 zoning), up to 500 Assisted Living Facility units (beds) and replaces 199 acres [acreage figure from City of Gainesville cartographic database] of industrial land use and I-1 zoning with up to 200,000 square feet of non-residential uses that include up to 100,000 square feet of retail/commercial businesses and 100,000 square feet of office use.

Acreage figures for the residential and non-residential components of the proposed PUD were not provided in the revised PUD Report.

The areas proposed for 200,000 square feet of non-residential uses currently have Single Family land use, except for an estimated one-acre area at the northeast corner of the subject property that has Industrial land use (land use as designated on the City's Future Land Use Map).

The applicant is proposing that a minimum of one-third of the 1,500 residential units be age-restricted, as previously explained.

The applicant is also proposing (see Exhibit 2-A, page 14, item 2.) “customary accessory uses **exclusively for residents and their guests** to support the development, which may include a **club house with overnight facilities**, grill room, **restaurant/bar**, library, computer center, cooking and other class rooms, meeting rooms, gym, spa, indoor athletic facilities, outdoor athletic facilities, bocce courts, tennis courts, pickleball courts, sporting fields and parks, cook-out areas, resort-style swimming pool with snack bar/grill, **boat, recreational vehicle and other storage**, biking and walking/jogging trails, and golf cart paths to connect areas.”

In item 5 on page 14 of Exhibit 2-A, the applicant states that the maximum of 200,000 square feet of “non-residential uses shall include retail/commercial businesses, supportive services and warehousing, eating establishments, offices, civic uses, and places of religious assembly. The total allowable retail/commercial uses shall not exceed 100,000 square feet. Open space boat and/or recreational vehicle or similar storage areas shall not be considered towards the square footage limitations...A maximum of 500 ALF units (beds) shall also be allowed on the Hatchet Creek site.” On page 7 of Exhibit 2-A, the applicant stated that the “neighborhood-scale retail/commercial, office, and light industrial (for example boat and recreational vehicle storage) uses on the site will allow for a variety of uses to **serve the needs of the Hatchet Creek PUD site and the surrounding context area.**”

Financial Feasibility related to Comprehensive Plan Amendments

In 2005 and 2007, amendments to Florida’s Growth Management Act required all local government comprehensive plans to be financially feasible. A comprehensive plan is deemed financially feasible if adequate financial resources are, or will be available over the next five years (as shown in the 5-Year Schedule of Capital Improvements) and for the long term, to ensure adopted level of service (LOS) standards will be achieved and maintained on relevant public facilities and services to support the level and pattern of development shown on the future land use map.

As part of the financial feasibility requirement, amendments to the future land use map must also be financially feasible as they relate to adopted levels of service. Amendments typically involve an increase in the density or intensity of use. The implications of changes to the future land use map must be assessed to determine whether sufficient capacity is available to service the needs produced by the development that would be associated with the amendment.

The proposed Hatchet Creek PUD has failed to provide adequate information concerning the financial feasibility impacts on adopted levels of service for transportation, potable water and wastewater. Of particular concern related to transportation is the impact on the Strategic Intermodal System (SIS) on NE 39th Avenue and the airport. The applicant has not provided adequate assurances regarding either a phasing schedule or a developer agreement for provision of capacity for roads, potable water, and wastewater that ensures that adopted levels of service will not be degraded. There are no FDOT or City planned roadway modifications that would supply capacity for the entire development needs proposed by the petitioner in the PUD land use amendment.

Transportation:

The traffic study that has been submitted is in need of further revision before it can be considered acceptable by all of the review agencies. Comments from FDOT (Exhibits 23-A and 23-B), Gainesville's Planning Division (Exhibits 24), Gainesville's Public Works Department (Exhibit 25), Alachua County Public Works (Exhibit 26), and from Alachua County Growth Management (Exhibit 27) are attached. Previous comments from these agencies (except for County Growth Management, which did not previously comment) are within the attached, June 1, 2007 responses document (Exhibit 2-C) from the applicant.

Planning staff believes that the traffic study underestimates the potential traffic impact of the proposed non-residential uses and overestimates the trips associated with the industrial land use portion of the property given wetland impacts and surface water limitations.

The PUD uses should be specifically and explicitly stated in the PUD Report. For example, specify whether office uses include medical uses. Concurrency staff recommends that drive-through uses be prohibited unless the commercial uses can be internalized into the development and internal connectivity can be provided.

Transportation impacts of this land use change on the Airport (part of the Strategic Intermodal System) and the SIS (NE 39th Avenue) are inadequately addressed. This is also a financial feasibility issue. If the developer cannot show that roadway capacity exists to serve the full scope of the development at adopted LOS, then the development should be limited to a phasing plan that reflects a financially feasible land use amendment. Alternatively, the developer can enter into a Developer Agreement that satisfies FDOT, Alachua County, and the City concerning maintaining adopted LOS over the projected build-out period.

A condition of approval for the PUD is that the developer will sign a Proportionate Fair Share Agreement for provision of the required traffic mitigation prior to the second reading of the PUD ordinance. The agreement will include provisions for FDOT and Alachua County since their roads will be impacted by the development.

August 31, 2007 comments from City of Gainesville Public Works Department - Comments on revised traffic study submitted for Hatchet Creek – August 2007:

Proposed: 750 DU Senior Adult Housing/Detached (ITE 251); 750 DU Senior Adult Housing/Attached (ITE 252); 500 units/beds Assisted Living Facility (ITE 254); 100 KSF General Office (ITE 710); and 100 KSF Shopping Center (ITE 820)

1. There are discrepancies between the trip distribution values shown in the model plots (Appendix E) and Figure 3 – Project Distribution. In addition, there is no clear indication of the distribution values applied to the area immediately surrounding the project site; values are not shown in the figure or in Table 6. Please clarify why model values were not used and clearly indicate the values assumed.

2. Pass-by applied to shopping center on Table 5 – Trip Generation Summary is too high. There is a discrepancy between the daily trips shown on the segment and the value shown on Table 3. Please revise Table 5 accordingly.
3. Table 5 – Trip generation Summary shows that the project will generate a total of 978 net new trips, 441 entering the project and 537 exiting. The values shown on Figure 6 indicate that 464 entering and 547 exiting, and therefore do not match the values shown on Table 5. Please correct accordingly.
4. Several comments [dated 6/18/07] provided by the City during the previous round of comments were not considered including the request that project traffic from Wal-Mart (Waldo Road & NE 12 Avenue) and the Home Depot (US 441 & NW 53rd Avenue) be added to the background traffic.
5. The analysis of future conditions indicates that several intersections will have movements however no mitigation plan is presented to address the deficiencies.

FDOT reviewed the traffic study and made various comments (Exhibits 23-A and 23-B, letters dated 8/31/07 and 8/30/07 respectively). FDOT has requested corrections to the traffic study and has pointed out that the Department (FDOT) is not committed at some future date to accept the intersection analyses provided in the study. FDOT also noted that additional point operational and safety analyses will likely be required in the future.

Transit – RTS in its comments of 9/6/07 stated that the PUD Report needs minor corrections as follows: two minor edits on the second paragraph on page 9 and the mention of an outdated RTS System map on page 8 (buses converge in downtown Gainesville at the new Downtown Station instead of the Downtown Plaza); Downtown Plaza should be changed to downtown Gainesville or the new Downtown Station; Route 24 does not currently, nor is it planned to, provide direct "access to the proposed Wal-Mart on Waldo Road"; however, it does come within approximately one quarter mile of the proposed Wal-Mart.

Planned Development zoning required:

PD zoning is required within 18 months of the PUD land use designation. However, one 12-month extension may be granted by a majority vote of the City Commission within 18 months of the PUD land use designation.

Applicable Goals, Objectives and Policies of the Comprehensive Plan

Future Land Use Element

Policy 1.2.8 Gated residential developments shall be prohibited to keep all parts of the community accessible by all citizens, and to promote transportation choice.

Policy 1.3.5 Parking lots and garages should be subordinated, and limited in size.

Policy 4.1.1: Planned Use District. [See p.4]

Policy 4.1.3 The City will review proposed changes to the Future Land Use Map by considering factors such as, but not limited to, the following:

1. Overall compatibility of the proposal
2. Surrounding land uses
3. Environmental impacts and constraints
4. Whether the change promotes urban infill; and
5. Whether the best interests, community values, or neighborhood support is achieved.

In no case shall this or any other Policy in the Future Land Use Element indicate a presumption that the City shall support a change of designation of land use for any parcel.

Transportation Mobility Element

Objective 9.2

Continue to eliminate incompatible land uses within airport noise contours and hazardous obstructions affecting the landing, takeoff, or maneuvering of aircraft, and coordinating the siting of new (or expansion of existing) airports, or related facilities with the Future Land Use and Conservation, Open Space and Groundwater Recharge Elements.

Policy 9.2.1 The City's Future Land Use Element shall designate compatible land uses within the vicinity of the airport.

Policy 9.2.2 The City shall continue to work with Alachua County to ensure that incompatible land uses within the 65, 70 and 75 Ldn airport noise contours are eliminated.

Policy 9.2.3 The City shall encourage the Gainesville-Alachua County Regional Airport Authority to acquire adjacent land which is not compatible with the Airport as identified in the FAR Part 150 Study, and determined to be economically feasible by federal and state land acquisition regulations.

Concurrency Management Element

Policy 1.10.1

Outside the TCEA, transportation concurrency requirements (for roads and transit) shall be met under any of the following standards:

- a. The necessary facilities and services, at the adopted level of service standard, are in place or under construction at the time a final development order is issued.

- b. The necessary facilities and services to serve the new development, at the adopted level of service standard, are scheduled to be in place or under actual construction not more than three years after issuance of a certificate of occupancy as provided in the City's adopted Five-Year Schedule of Capital Improvements. The Capital Improvements Element must include the following information and/or policies:
1. The estimated date of commencement of actual construction and the estimated date of project completion.
 2. A provision that a plan amendment is required to eliminate, defer, or delay construction of any road or transit facility or service which is needed to maintain the adopted level of service standard and which is listed in the Five-Year Schedule of Capital Improvements.
- c. The necessary facilities and services to serve the new development, at the adopted level of service standard, are transportation projects included in the first three years of the applicable adopted FDOT five-year work program.
- d. At the time a final development order is issued, the necessary facilities and services are guaranteed in an enforceable development agreement, pursuant to Section 163.3220, Florida Statutes, or an agreement or development order issued pursuant to Chapter 380, Florida Statutes, to be in place or under actual construction not more than three years after issuance of a Certificate of Occupancy.
- e. At the time a final development order is issued, the necessary facilities and services are guaranteed in an enforceable development agreement, which guarantee is secured by a completion bond, letter of credit, or other security acceptable to the City Attorney. The agreement must guarantee that the necessary facilities and services will be in place or under actual construction not more than three years after issuance of a Certificate of Occupancy. The development may meet any of the requirements in Policy 1.10.1 by making a payment and contracting with the City in an enforceable agreement for the provision of the facilities or services.

Conservation, Open Space and Groundwater Recharge Element

Objective 1.1 Upon adoption of this Plan, the City shall protect all significant environmental lands and resources identified in the Environmentally Significant Land and Resources map series within the Future Land Use Map Series. The City shall continue to identify environmentally significant open space and recreation sites for acquisition.

Policy 1.1.1 At a minimum the following standards and guidelines shall be used to protect environmentally sensitive resources identified in the Environmentally Significant Land and Resources map series within the Future Land Use Map Series. The City shall develop and adopt land development regulations that establish criteria for expansion of the minimum standards addressed below.

- a. Creeks: Between 35 and 150 feet from the break in slope at the top of the bank, there is a rebuttable presumption that development is detrimental to the regulated creek. Development must conform to applicable provisions of the land development regulations which prohibit development within a minimum of 35 feet of the break in slope at the top of the bank of any regulated creek.
- b. Wetlands: Developments containing wetlands must avoid loss of function or degradation of wetland habitat and/or wetland hydrology as the highest priority. Degradation or loss of function that is unavoidable shall be minimized, and the applicant must demonstrate that the project is clearly in the public interest, with final administrative approval by the city commission on appeal, if necessary...

Policy 1.1.2 The City shall use the environmentally significant properties inventory/ranking report to identify viable populations of native plant and animal species, environmentally significant areas, and unique geological or historic features that should be preserved, and show connectivity with other public lands and environmentally significant areas that should be maintained.

Objective 2.2 The City shall improve the quality of stormwater entering City lakes and creeks by requiring development and redevelopment to meet the adopted water quality standards of this Element and the Stormwater Management Element.

Policy 2.4.3 The City shall continue to have guidelines for the design of stormwater basins that require the use of native vegetation and basin slopes suitable for stormwater treatment that promote highly diverse plant and animal habitats, particularly within stream-to-sink basins, and that enhance the hydrological and ecological functions of related wetland areas.

Objective 2.4 The City shall amend its land development regulations as necessary to conserve environmentally significant surface waters; major natural groundwater recharge areas; threatened or endangered or listed (or candidates for being listed) plants, animals and habitats; and prevent the spread of invasive vegetation. The adopted regulations shall be designed to maintain viable populations of these existing plant and animal species and allow development activities which are compatible with identified environmentally significant lands and resources. (See Environmentally Significant Land and Resources map series within the Future Land Use Map Series.).

Policy 2.4.1 The City shall maintain an updated inventory of identified environmentally significant resources identified in the Environmentally Significant Land and Resources map series within the Future Land Use Map Series. If additional resources are identified, these properties shall be subject to regulations keyed to the resource present at the site. The Future Land Use Map Series shall be amended to include these properties.

Policy 2.4.2 The City shall adopt land development regulations that protect identified threatened or endangered or listed (or candidates for being listed) plants, animals or habitats.

These regulations shall require developments of parcels within the environmentally significant areas to submit an ecological inventory of the parcel.

Policy 2.4.6 The City shall continue to have land development regulations for environmentally significant wetlands, lakes and regulated creeks that require:

- a. Setbacks from regulated creeks, lakes and wetlands;
- b. Prohibition of development that would cause erosion and sediment pollution to regulated creeks, lakes and wetlands;
- c. No net increase in the rate of runoff from development sites adjacent to regulated creeks, lakes and wetlands;
- d. Retention or detention of the first inch of runoff of developments adjacent to regulated creeks, lakes and wetlands, through on-site filtration;
- e. Retention of vegetation integral to the ecological value of regulated creeks, lakes and wetlands;
- f. Compliance with the City's adopted criteria for controlling sediment and erosion;
- g. Allowance of a transfer of development intensity and density from lower to higher elevations of a site; and
- h. Prohibition on the installation of all septic tanks.

Policy 2.4.10 The City shall protect floodplains through existing land development regulations that at a minimum:

- a. Prohibit development within the flood channel or floodplain without a City permit;
- b. Prohibit filling in the flood channel by junk, trash, garbage, or offal;
- c. Prohibit permanent structures in the flood channel, except for those necessary for flood control, streets, bridges, sanitary sewer lift stations, and utility lines;
- d. Prohibit the storage of buoyant, flammable, explosive, toxic or otherwise potentially harmful materials in the flood channel;
- e. Prohibit development within the floodplain that would reduce the capacity of the floodplain;
- f. Prohibit development that would cause or create harmful soil erosion, stagnant water, and irreversible harmful impacts on existing flora and fauna;

- g. Limit flood channel uses to agriculture, recreation, lawns, gardens, and parking areas; and
- h. Limit floodplain uses to launching areas for boats and structures at least one foot above the 100-year flood elevation, in addition to those allowed in the flood channel.

Policy 2.4.11 The City's land development regulations shall protect environmentally significant lands and resources by:

- a. Controlling permissible uses through regulatory overlay districts;
- b. Providing opportunities for alternative and innovative site development;
- c. Providing setback and parking standards;
- d. Providing mandatory mitigation to ensure no net loss of acreage and functions when wetlands are unavoidably lost;
- e. Allowing for, or requiring the clustering of development away from environmentally significant resources; and
- f. Restricting on-site waste disposal systems.

Policy 2.4.12 At a minimum, conservation strategies for significant natural communities shall include:

- a. Required conservation of native upland natural communities;
- b. Installation of native vegetation landscaping and removal of invasive trees and shrubs; and
- c. Setbacks.

Policy 3.1.6 The City shall continue to exclude invasive vegetation from plant material permitted in landscape plans.

Objective 4.2 The City shall identify pollution problems and parties responsible, and establish strategies to mitigate, remediate, or assist in the mitigation or remediation of these problems in all watersheds within Gainesville's city limits. In consideration of the importance of water quality of the creeks in our community, priority shall be given to improving the quality of water entering Sweetwater Branch, Tumblin Creek and Hogtown Creek.

Stormwater Management Element

GOAL 1: Design, construct and maintain a stormwater management system that reduces the incidence of flooding, and protects, preserves and enhances desirable water quality conditions, and to the maximum extent feasible, preserves and utilizes the existing natural systems.

Objective 1.7 The City shall continue to encourage the preservation and protection of existing drainage features.

Policy 1.7.4 There shall not be any decrease in the capacity of floodplains nor any destruction of creeks regulated by the "Regulation of Development Near Creeks" ordinance.

Applicant Information

Causseaux, Hewett & Walpole, Inc., agent for East Gainesville Development Partners LLC.

Request

Causseaux, Hewett & Walpole, Inc., agent for East Gainesville Development Partners LLC. Amend the City of Gainesville 2000-2010 Future Land Use Map from SF (Single-Family, up to 8 units per acre), IND (Industrial), and REC (Recreation) to PUD (Planned Use District to allow up to 1,500 dwelling units, up to 500 units (beds) of Assisted Living Facility (ALF), and up to 200,000 square feet of non-residential uses, including outdoor storage facilities. Located at 2100 Northeast 39th Avenue, adjacent to the Ironwood Golf Course.

Existing Land Use Plan Classification

SF, IND, and REC

Existing Zoning

RSF-1, I-1, and PS

Purpose of Request

The proposed PUD designation will allow for a mix of uses including 1,500 age-restricted (minimum of 33 percent of units) single-and multi-family residential units plus accessory uses, a 500-unit (bed) Assisted Living Facility, and up to 200,000 square feet of non-residential uses, including outdoor storage facilities, retail/commercial businesses (up to 100,000 sq. ft. of the max. total 200,000 non-residential uses), supportive services and warehousing, eating establishments, office (up to 100,000 square feet of the max. total 200,000 sq. ft. non-residential uses), civic uses, and places of religious assembly. (Source: Hatchet Creek PUD Report, Revised August 21, 2007, pages 7 and 14, Exhibit 2-A.)

City Plan Board
 Petition 23LUC-07 PB
 September 20, 2007

Location	West of Waldo Road and east of NE 15 th Street, south of NE 53 rd Avenue and north of NE 39 th Avenue. Subject property surrounds the City of Gainesville's Ironwood Golf Course.
Size	+/- 498 acres
Existing Use	Vacant
Surrounding Land Uses	
North	GRU well field and water treatment plant, vacant land
South	Vacant land, and several businesses (light industrial, mini-storage, convenience store, and equipment rentals) on north side of NE 39 th Avenue
East	Gainesville Regional Airport, Brittany Estates mobile home park, vacant land (including City of Gainesville tree farm)
West	Single-and multi-family development, GRU electrical substation, vacant land

NOTE – Subject property surrounds the Ironwood Golf Course.

Surrounding Controls	Existing Zoning	Land Use Plan
North	PS (Public services and operations), R/AG (Alachua County Agricultural)	Public Facilities, Alachua County Agricultural
South	RSF-1 (3.5 du/a, single-family), RSF-4 (8 du/a, single-family), I-1 (Limited industrial district), PS, AF (Airport facility district),	Single-Family (up to 8 units per acre), Industrial, Recreation, Public Facilities
East	I-1, AF (Airport facility district), ML (Alachua County Light Industrial), MP (Alachua County Manufacturing & Processing)	Industrial, Public Facilities, Alachua County Industrial/Manufacturing
West	RSF-1, RMF-5 (12 du/a, residential low-density), BUS (General business district), PS	Single-Family, Residential Low-Density (up to 12 units per acre), Commercial, Public Facilities

Impact on Affordable Housing

It is staff's opinion that the opportunity for affordable housing will not be negatively impacted by the proposed PUD for this undeveloped property.

Summary

The proposed Planned Use District (PUD) land use for the areas of the subject property that are not in the Industrial future land use category, with all revisions and conditions recommended by staff, is consistent with the Comprehensive Plan and recommended for approval. The proposed Planned Use District (PUD) land use for the areas of the subject property that are in the Industrial future land use category is inconsistent with the Comprehensive Plan, and is recommended for denial.

Respectfully Submitted,



Ralph Hilliard, Planning Manager

Attachments

RH: DM

/Plan 2007 Hatchet Creek/23LUC-07 PB Hatchet Crk Final 092007.doc

List of Exhibits

- Exhibit 1: Site Location Map
- Exhibit 2-A: Hatchet Creek PUD Report, Revised August 21, 2007
- Exhibit 2-A-1: Traffic Impact Analysis, Revised August 2007
- Exhibit 2-A-2: Fiscal Impact Analysis, August 21, 2007
- Exhibit 2-A-3: Market Analysis, August 20, 2007
- Exhibit 2-B: Hatchet Creek PUD Report, March 2007
- Exhibit 2-C: Applicant Responses to Staff Comments, June 1, 2007
- Exhibit 3: Letter from Ronald A. Carpenter, April 11, 2007
- Exhibit 4: BLID Letter from DCA, March 26, 2007
- Exhibit 5: DCA's Letter of August 22, 2007 re: Requested Clearance Letter
- Exhibit 6: Airport Noise Zone
- Exhibit 7: Summary Opinion from City Consultant, July 12, 2007
- Exhibit 7-A: City Consultant's August 5, 2007 Review of July 30, 2007 Fowler White Boggs Banker "Hatchet Creek" Memorandum
- Exhibit 7-B: Fowler White Boggs Banker "Hatchet Creek" Memorandum, July 30, 2007
- Exhibit 8: Letter from FDOT's State Aviation Manager, June 27, 2007
- Exhibit 9-A: Letter from Gainesville Regional Airport's Allan Penksa, April 2, 2007
- Exhibit 9-B: Letter from Gainesville Regional Airport's Suzanne Schiemann, April 25, 2007
- Exhibit 9-C: Letter from Allan Penksa, July 2, 2007
- Exhibit 10: Map - Airport Noise Zone (65, 70 and 75 Ldn contours) and Single-Family & Industrial land use

- Exhibit 11: Letter from FAA, April 9, 2007
- Exhibit 12: Letter from Aircraft Owners and Pilots Association
- Exhibit 13: Map – Maximum Building Heights
- Exhibit 14: Map – Regulated Creeks, Lakes & Wetlands
- Exhibit 15: Map – Wellfield Protection Zones
- Exhibit 16: Map – Floridan Aquifer Recharge
- Exhibit 17: Map – Significant Ecological Communities Overlay
- Exhibit 18-A: Environmental Coordinator’s Comments, August 31, 2007
- Exhibit 18-B: Environmental Coordinator’s Comments, June 5, 2007
- Exhibit 19-A: Excerpt from Application No 4-001-11170-1 to St. Johns River Water Management District (SJRWMD), May 4, 2007
- Exhibit 19-B: Letter from SJRWMD re: App. No 4-001-11170—1, June 1, 2007
- Exhibit 20: Map – 100-Year Floodplain
- Exhibit 21: City Arborist’s comments, September 5, 2007
- Exhibit 22-A: Letter from Robert Hutchinson to Gainesville City Plan Board, June 13, 2007
- Exhibit 22-B: Letter from Robert Hutchinson to Mayor Hanrahan and SJRWMD Executive Director, Kirby Green, April 2, 2007
- Exhibit 23-A: Comments from FDOT District II, August 31, 2007
- Exhibit 23-B: Comments from FDOT District II, August 30, 2007
- Exhibit 24-A: Comments from Gainesville Planning Division, September 6, 2007
- Exhibit 24-B: Recreation LOS Comments from Gainesville Planning Division, September 7, 2007
- Exhibit 25: E-mail from Gainesville Public Works, June 28, 2007

Exhibit 26: Comments from Alachua County Public Works, May 22, 2007

Exhibit 27: Comments from Alachua County Growth Management, August 31, 2007

Exhibit 1:

CONDITIONS OF APPROVAL

(To be added to Future Land Use Element as Policy 4.3.4)

The Hatchet Creek PUD shall be governed by the following policies:

General:

- A-1. That the PUD be limited to a maximum of 1,199 residential units and a maximum of 160,000 square feet of non-residential uses (to include a maximum of 100,000 square feet of retail space and a maximum of 60,000 square feet of office space). Note: This maximum amount of residential and non-residential development may be reduced at the time of PD rezoning due to other development restrictions and constraints, including but not limited to, wetlands and surface water regulations, wellfield protection, floodplain requirements, concurrency and airport hazard zoning regulations.
- A-2. That no residential units be allowed within the Airport Noise Zone consisting of the 65, 70 and 75 Ldn noise contours as adopted and depicted in Attachment 3 to Appendix F - Airport Hazard Zoning Regulations, Chapter 30, Gainesville Codes of Ordinances in effect as of the effective date of the PUD Land Use Ordinance for this development.
- A-3. That for any non-residential development within the Airport Noise Zone, the only allowable uses shall be those permitted uses identified in Appendix F, Article II, Section C.2.d of Chapter 30, Gainesville Code of Ordinances. In addition, such permitted uses shall be compatible or made compatible (in accordance with Table 1 of Appendix A to 14 C.F.R. Part 150) with the Airport Noise Subzone within which the use is located.
- A-4. The area, uses, intensity and density of the Planned Use District shall be restricted as follows:

Zone	Area	Uses	Density	Intensity
Within Airport Noise Zone		No residential development is allowed. Accessory uses (e.g., recreational facilities) to residential development located outside of Airport Noise Zone are permitted. Non-residential development in accordance with the permitted uses identified in Appendix F - Airport Hazard Zoning Regulations, Chapter 30, Gainesville Codes of Ordinances in effect as of the effective date of the PUD Land Use Ordinance for this development	N/A	Maximum of 160,000 sq. ft., of non-residential uses (to include a maximum of 100,000 sq. ft. of retail space and a maximum of 60,000 square feet of office space) to be allowed within entire PUD.
Outside of Airport Noise		Residential	Up to 8.0 units per	

Zone		acre, or up to 1,199 units, whichever is less.	
	Non-residential		Maximum is the total square footage not used "Within Airport Noise Zone".
Totals	299 acres (approximately)	Maximum of 1,199 dwelling units.	Maximum of 160,000 sq. ft., of non-residential uses (to include a maximum of 100,000 sq. ft. of retail space and a maximum of 60,000 square feet of office space) to be allowed within entire PUD.

- B. All Commercial/Office areas in the PUD shall be connected to the residential and other uses by an interior roadway and pedestrian/bicycle system.
- C. A planned development zoning ordinance consistent with the planned use district must be adopted by the City Commission within 18 months of the effective date of the land use change. If the aforesaid zoning ordinance is not adopted within the 18-month period, then the overlay planned use district shall be null and void and of no further force and effect and the overlay land use category shall be removed from the Future Land Use Map, leaving the original and underlying land use in place. Should the applicant fail to obtain PD zoning within the 18-month period, one 12-month extension may be granted by a majority vote of the City Commission within 18 months of the effective date of the land use change.
- D. A current and complete wetlands survey for the entire property shall be submitted to the City of Gainesville and to the St. John River Water Management District at the time of application for PD (planned development district) zoning. Informal approval of wetland delineations for the entire property by the water management district is required prior to the public hearing on the planned development zoning petition by the City Plan Board.
- E. All direct impacts to jurisdictional wetlands and wetland buffers shall be prohibited, with the exception of crossings required for the internal road network and for egress and ingress into the planned use district. Where such crossings cannot be avoided, impacts to the wetland

resources shall be minimized to the extent practicable. All unavoidable, direct wetland impacts shall be mitigated in accord with applicable City of Gainesville and water management district requirements. As part of the overall wetland mitigation requirements for any unavoidable, direct wetland impacts, on-site mitigation shall be the first option. Any required on-site mitigation will be part of and will not supersede other wetland mitigation requirements of the comprehensive plan, land development code, and the water management district.

- F. All pedestrian and/or bicycle pathways, trails, and sidewalks shall be located outside of wetland buffer areas and outside of creek buffer areas.
- G. Protection of the State-listed animal species, Gopher tortoise (*Gopherus polyphemus*) listed as a Species of Special Concern in Rule 68A-27.005, Florida Administrative Code) located in the remnant sandhills east of the Ironwood Golf Course, and documented in the Hatchet Creek PUD Report, is required and shall be established in the planned development zoning ordinance. Protection of the documented population may be accomplished by establishing a designated protection area in the planned development zoning ordinance that meets all applicable requirements of the City's significant ecological communities district (Sec. 30-309, land development code) and all applicable requirements of the Florida Administrative Code.
- H. The applicant shall submit an environmental features report (in accordance with the requirements of the Significant Ecological Communities zoning district (Section 30-309, Gainesville Code of Ordinances) with the application for planned development zoning. As part of this report, the highest-quality uplands shall be delineated and any development within these high-quality areas shall be restricted. In particular, the applicant shall preserve and restore the area identified as sandhill (FLUCCS code 412) in the northeastern part of the site. Restoration of any upland habitat on this site may require prescribed burning.
- I. The application for planned development district zoning shall include requirements for the use of native vegetation landscaping and for the removal of invasive trees and shrubs.
- J. A master stormwater management plan for the entire planned use district shall be prepared by the applicant. The plan shall include provisions for protecting the water quality of Little Hatchet Creek, particularly with respect to stormwater runoff from any future development within the planned use district. A conceptual master stormwater management plan shall be submitted at the time of application for planned development district zoning. The subsequent master stormwater management plan must be approved by the City's Public Works Department prior to final development plan approval. The master stormwater management plan for the project shall be modified for undeveloped phases in order to comply with the statewide water quality rule once it is adopted.
- K. Buffer and setback requirements for the wetlands and creeks in the planned development district shall be greater than the minimum required by the land development code, if warranted based upon review of the required environmental features report that shall be submitted with the application for planned development district zoning.
- L. Buffer requirements pertaining to adjacent uses (including the municipal golf course) will be proposed by the applicant in the application for planned development district zoning, in order to protect the viability of the adjacent uses.

Transportation Conditions:

- M. The planned use district land use category shall not vest the development for concurrency. The owner/developer is required to apply for and meet concurrency management certification requirements, including all relevant policies in the Concurrency Management Element, at the time of application for planned development district zoning. Transportation modifications which are required due to traffic safety and/or operating conditions, and which are unrelated to transportation concurrency shall be provided by the developer.
- N. Internal roadway connection is required between the residential and non-residential portions of the development. It shall be designed to minimize cut-through traffic, to provide for bicycle and pedestrian access and connectivity, and it shall include traffic calming (low design speed) methods acceptable to the City of Gainesville.
- O. Sidewalks shall be provided on all internal streets. Sidewalk connections shall be made from the internal sidewalk system to the public right of way adjoining the planned use district. All sidewalks and sidewalk connections shall be a minimum of 5-feet in width.
- P. The planned development associated with the planned use district shall provide for transit access (either on site or on abutting roadways) and shall include construction of an appropriate number of transit shelters, as recommended by City staff at the planned development rezoning stage.
- Q. A maximum of two drive-through facilities shall be allowed. No direct access from NE 39th Avenue or NE 53rd Avenue shall be allowed. All access to the drive-through facilities shall be from the internal roadway system in the planned use district.
- R. A maximum of two access points shall be allowed along NE 39th Avenue, subject to the final approval of FDOT. Any proposed reconfiguration of the existing road connection to the Ironwood Golf Course is subject to FDOT and City approval at the planned development rezoning stage.
- S. A maximum of two access points shall be allowed along NE 53rd Avenue, and shall be included in the planned development district zoning application. All access points are subject to Alachua County and City of Gainesville approval at the planned development rezoning stage.
- T. A maximum of one access point shall be allowed along NE 15th Street. Any proposed access point along NE 15th Street shall be included in the planned development district zoning application. Any proposed access point is subject to City of Gainesville approval at the planned development rezoning stage.
- U. Additional, limited emergency access will be allowed if the need for such is identified and the access is approved by local government agencies that provide the emergency service(s).

- V. Prior to the application for a planned development rezoning related to the PUD, a major traffic study shall be submitted that meets the specifications provided by FDOT, Alachua County, and the City of Gainesville. A traffic methodology letter shall be signed with the City before commencing any traffic studies.
- W. Prior to the second reading of the PUD land use amendment ordinance, the developer shall sign a binding agreement for proportionate fair-share mitigation of the transportation concurrency impacts associated with the maximum amount of development identified in the future land use map amendment. The City shall amend the 5-Year Schedule of Capital Improvements to show the required transportation modifications and funding provided by the developer. If sufficient funds are not available for the required transportation modifications, the developer shall be required to limit the development program associated with the PUD amendment to that which would not degrade the transportation level of service (LOS) below the adopted LOS for impacted roads.
- X. A signal warrant analysis for the intersection of NE 53rd Avenue/NE 15th Street and for the project driveway at NE 39th Avenue shall be submitted as part of the traffic study requirements. The developer shall be responsible for the costs of any new traffic signals that are warranted, and the cost shall not be counted toward the proportionate fair-share contribution for traffic concurrency.
- Y. Prior to the second reading of the PD rezoning ordinance, the developer shall sign a binding letter of agreement with Gainesville Regional Utilities' GRU.com to provide for the installation of fiber optic cable consistent with the City's Traffic Management System (TMS) standards, which shall run along NE 39th Avenue from NE 15th Street to Waldo Road.

Airport compatibility conditions

- Z-1. Avigation and clearance easements granting the owner/operator of the Gainesville Regional Airport the right to continue to operate the airport in a manner similar to current operations despite potential nuisance effects upon residential and any other uses that are established by this PUD and/or by the required planned development (PD) district zoning ordinance; (2) Notice to Prospective Purchasers and Lessees of potential aircraft overflights and noise impacts; and (3) Declaration of Restrictive Covenants to address the property's proximity to the Airport and the imposition of local, state and federal regulations, shall be executed prior to release of a development site plan, prior to or recording of a final plat, or prior to issuance of a building permit, whichever first occurs. The easements, notice and declaration shall be in a form acceptable to the city attorney and airport authority and shall be executed in a recordable form by the property owner. In addition, a copy of the Notice shall be given to prospective purchasers or lessees at the time of contract or lease negotiations.
- Z-2. All residential and non-residential development shall be constructed to the highest FAA noise level reduction (NLR) standards then in effect.

Other conditions

- Z-3. The developer shall be required to fund any potable water and/or wastewater capacity improvements needed to maintain the adopted levels of service in the Potable Water/Wastewater Element of the City's Plan.

Z-4. At the Planned Development rezoning stage, the Hatchet Creek PUD shall provide design standards for all residential and non-residential uses.

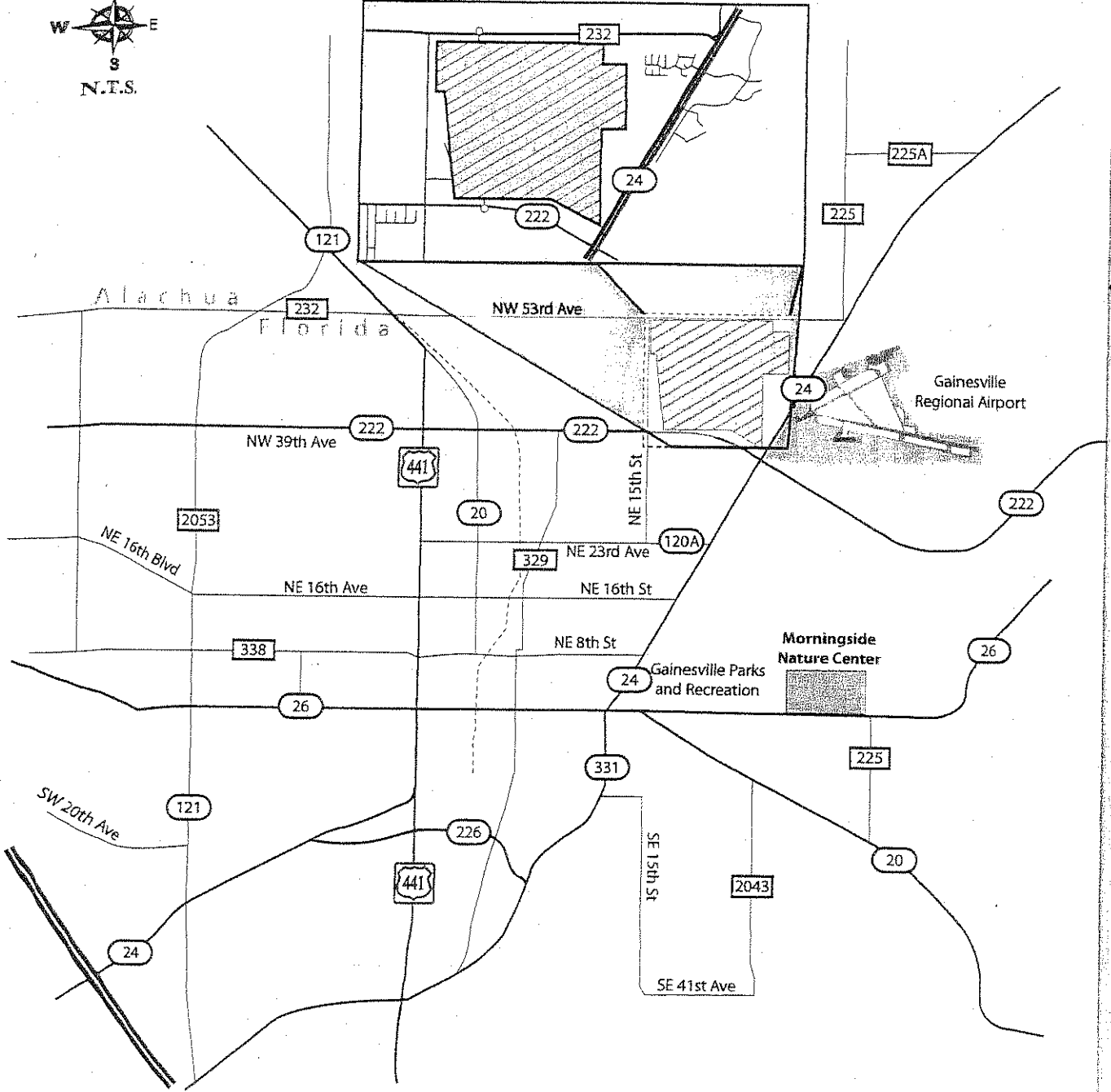
Z-5 All residential development shall be housing designated for persons who are 55 years or older in accordance with the Federal Fair Housing Act (Title 42, Chapter 45, Subchapter I, U.S.C), the Florida Fair Housing Act (Chapter 760, Part II, F.S.) and all related federal and state regulations.

Z-6. This Planned Use District land use ordinance does not permit or allow any development that would constitute a development of regional impact or any development that would require a development of regional impact review. The applicant shall not submit a planned development (PD) district zoning application that will exceed any threshold that requires the development to undergo development of regional impact (DRI) review. Any PD zoning application or any application for proposed development that will exceed the development of regional impact thresholds shall be required to follow the procedures as defined in Chapter 380, F.S. and applicable regulations of the Florida Administrative Code. (Note: the Florida Department of Community Affairs on March 26, 2007 issued a Binding Letter of Interpretation of Development of Regional Impact (DRI) Status (BLID 03-2007-003, Hatchet Creek) which indicated that the proposed Hatchet Creek development consisting of 1,199 residential units, 175,000 square feet of retail space with no more than 940 parking spaces; and 60,000 square feet of office space will not be required to undergo DRI review.)

TABLE



Project Site



GMB Engineers & Planners, Inc.
3751 Maguire Boulevard, Suite 211
Orlando, Florida 32803

Hatchet Creek

Figure 1
Site Location Map

EXHIBIT 5



April 2, 2007

Mr. Russ Blackburn, City Manager
City of Gainesville
PO Box 490, Station 06
Gainesville, FL 32602-0490

Re: Hatchet Creek Planned Use Development Proposal

Dear Mr. Blackburn:

It was a pleasure meeting with you and Mr. Erik Bredfelt on January 29, 2007 to discuss ways in which the airport authority and the city can work more closely to achieve our common goals. The airport is a vital community asset into which the city, the authority and our state and federal governments have made considerable investment. Investment in the airport continues to bear fruit by creating good paying jobs and providing critical air transportation services to our community. We look forward to working with you and your staff to maximize the value and utility of our regional airport.

During our meeting I expressed my very serious concerns about the senior housing development being planned in and around the Ironwood Golf Course. I was alerted to the proposed development only a few days earlier when the developer, Mr. Robert Simensky, contacted me with a request to use airport lands to help accommodate a portion of his project's storm water needs. I had been referred to him by Mr. Ralph Hilliard of your planning department. I also understood during our meeting that you were aware of the project. Mr. Simensky has since indicated that he has been acquiring land and planning this project for approximately a year and a half. I attended the neighborhood meeting for the project on February 28th. I was very cognizant of the fact that the developer did not bring up potential noise nor other negative effects related to the project's close proximity to the airport nor did he show the city adopted noise zones affecting his use of the property. The airport issue was raised by others and was downplayed by the presenters.

The plan for the Hatchet Creek development confirms my worst fears, as it shows high density residential units within the current R-1 and I-1 districts, directly beneath short final approach to the airport's main commercial service runway. The housing is adjacent to the airport clear zone; the absolute nearest a structure can be to the runway end. Aircraft on final approach to Runway 11 will overfly portions of this development at altitudes of less than 150 feet. This is less than the wingspan of some of the transport category aircraft that utilize the airport. This will be noisy, unnerving to many residents of the proposed development, and is not in the best interest of safety. Some aircraft may operate considerably lower, based on weather conditions, the type of approach utilized,

pilot technique and aircraft performance parameters. We are preparing a graphic that will show the profile of typical over flights over the subject property.

Having relatively compatible land around it, the airport has been free to operate for some time without operational restrictions and without significant noise complaints. Previous city and county management had the foresight to zone for compatible land uses close to the runway ends. The City and the Authority also worked together to acquire buffer lands in noise sensitive areas beneath the runway approach on the east side of the airport. Acquisitions included some existing residences as well as the Gum Root Park property. Both the county and the city have incorporated airport noise and hazard districts into their land development codes. In addition, the City completed a FAA funded FAR Part 150 Noise Compatibility Planning Study in 1985 which analyzed land uses and operational demands of the Airport, adopted an ordinance limiting land use in those zones and adopted the Airport's 1987 Master Plan, including the Off Airport Land Use Plan. Ignoring existing city zoning and noise protection resulting from an approved FAR Part 150 study may put the city in violation of its FAA Grant Assurances and jeopardize future federal funding. The airport cannot survive without the tens of millions of federal dollars it needs for capital repairs and improvements.

While it may be technically feasible to allow residences within the city's 65 ldn noise contours by requiring special sound insulating measures during construction, it is naïve to believe this will satisfy residents over time. Eventually, many will resent the constant stream of aircraft flying low over their homes at all hours of the day and night, spoiling their enjoyment of the outdoors. Because this development is so close and the aircraft will be so low, some residents may have an inconsolable fear of aircraft falling down upon them. I have met individuals like this over the course of my career. Many residents purchasing homes within this development will not recognize the full impact aircraft noise has on their lives until after the sale. Increases in airport activity and changes to flight schedules will be seen by some as changing the conditions of the sale and something to be resisted or to be compensated for.

Allowing residences to be built in established noise zones and airport incompatible areas may expose the city and the authority to future damage litigation from property owners. The effects of noise, vibration, fear from low flying aircraft and other perceived damages resulting from increased aircraft operations may result in inverse condemnation law suits. This occurred in 1994, when the city was forced to pay a \$1.5 million dollar judgment to four property owners beneath the eastern approach to the airport (Edward Foster, et al v City of Gainesville, Case no. 88-2556-CA). The plaintiff's properties were in the city's airport noise zones and were actually further from the runway threshold than some of the homes proposed in the proposed Hatchet Creek development. The plaintiffs argued that changes in airport operations caused frightening noise, interruption of sleep, fumes, vibration and residue on plants, laundry and outdoor items interfered with their enjoyment of their property and diminished its value. The \$1.5 million dollar judgment was far in excess of the appraised value of the properties. Allowing this development to go forward will greatly increase airport and the city exposure to such claims.

Insulating homes to reduce interior noise levels will not keep residents from claiming damages or joining forces and pressuring city officials to enact airport noise restrictions or demand detrimental changes to airport flight paths. Noise is a controversial and political issue around many airports and we should be thankful that it is not a problem here. Again, this is due to the foresight of past city and county planners and commissioners.

The Gainesville Regional Airport is a busy, 24 hour, seven day per week operation. We have more than 250 full and part-time employees at the airport providing air transportation and various aeronautical and ancillary services to the public. The number of employees is expected to double over the next year with the addition of the Eclipse Regional Jet service center and a DayJet maintenance and training center. Many operations occur in the late night and early morning hours. These include large jet charters returning our university sports teams, air freight and airline operations and charter jets transporting human organs and hospital emergency room teams. In addition, the airport accommodates about 9,000 military training operations per year. Growth in both operations and job potential are expected to continue.

If the Hatchet Creek development is allowed to go forward, commission members are sure to feel pressure to impose curfews or other flight restrictions. Operational restrictions to curtail noise can severely diminish the utility and economic value of the airport. Legal challenges by airlines, air freight operators and others to such measures are very expensive as federal law and FAA grant assurances work to protect access to public airports. Many airports within Florida have been forced to impose restrictions in reaction to public pressure. Many spend considerable resources to deal with noise complaints, insulate homes and enforce noise abatement rules on aircraft operators. These are resources we simply do not have but would be more productively spent elsewhere. In most instances these problems could have been avoided if the municipality had held firm on preventing residential encroachment. I can provide you numerous real world examples and would be happy to arrange for leaders from affected communities, as well as representatives of the FAA, FDOT and others to meet with members of the Commission to relate their experiences.

We strongly urge the city to deny the developers request to remove the current Industrial and R-1 (also problematic) zoning and construct high density residential units so close to the airport. The most effective way to ensure the city meet the expectations of residents and preserve the viability of its airport is through effective, compatible, land use zoning. This is the most important tool the city has and it we should not allow it to be squandered for this development. There is no other piece of private land within the City of Gainesville or Alachua County upon which residential development will have greater negative consequences for our airport. Also, there are precious few areas left within the city that are suitable for industrial development. Preserving industrial lands near the airport makes good sense. The airport is compatible with the existing golf course and industrial plants. Airport staff recommends that the city and airport authority work

together to purchase the developers property, if necessary, to ensure airport compatibility and provide for the recreational and job opportunities for our citizens. The current I-1 property has been identified for acquisition in the 2006 Master Plan Update. The airport can seek federal assistance for purchase of lands within established noise zones. Surely many more suitable residential development opportunities will come to east Gainesville as it is now so very difficult to commute from the west. East Gainesville will benefit far more from the continued employment and economic potential afforded by our local airport.

I submit that any city staff person, Plan Board Member, or City Commission member that intends to evaluate or make decisions regarding approval of this PUD and consequent land use changes should, as proper due diligence, spend sufficient time on the property to evaluate the potential effect of aircraft operations upon the proposed residences.

Please consider all of the above and the more detailed information in the attachments when reviewing the developer's application. We would appreciate the opportunity to participate in all city staff meetings regarding review of the Hatchet Creek development. The GACRAA Board requests that our comments receive equal consideration to those of city staff. We also wish to be directly notified of all public meetings where this project will be discussed and acted upon. We would greatly appreciate your extension of courtesies in this important matter.

Very truly yours,



Allan J. Penksa, C.M.
Interim Chief Executive Officer

attachments

cc: City Commission Members
Mr. Tom Saunders, City of Gainesville

Gainesville Regional Airport
April 3, 2007

Initial Comments to Proposed Hatchet Creek Development

Gainesville Regional Airport staff believes approval of the Hatchet Creek PUD thereby allowing residential encroachment upon the airport boundary is contrary to the tenets of good municipal planning as well as the established plans, policies and ordinances of the City of Gainesville, the provisions of the Alachua County Comprehensive Plan, policies of the State of Florida and the Federal Aviation Administration. Please take note of the following:

1. The City has signed numerous FAA grant agreements for development and rehabilitation projects at the airport. Item 21 of the federal Grant Assurances requires that the City "take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities compatible with normal airport operations, including landing and takeoff of aircraft. (We consider development adjacent to our minimum runway clear zone, beneath short final to our primary commercial runway as "very" immediate). The city has adopted such land use/zoning laws as a result of a federally funded CFR Part 150 noise study and a federally funded airport master plan.
2. The proposed development is contrary to the goals of Section IIC of the City's Airport Hazard Zoning regulations. The City has established Airport Hazard Noise Zones upon the subject property. Section II.C.2.f. states that "uses that are not specified as permitted or restricted are prohibited in the Airport Noise Zone. Residential is listed as a restricted use unless prohibited by runway clear zone or zoning district regulations. The current land use zoning over much of the noise overlay on the subject property is industrial. The ordinance provides that the "Airport Noise Zone" shall be amended as necessary to reflect any changes in the documentation of forecast day/night averages on which said zone is based. Please note that noise weighted noise exposure levels at the airport are constantly changing depending upon type of aircraft in use, the flight frequency and time of operations. A change of aircraft type or additional night time operations can significantly affect perceived noise levels close to the airport. It would be very risky and short sighted to allow a relaxation of the existing land use zoning based on assumptions about current or future noise levels. The best way to limit citizen's exposure to noise and maintain their quality of life is to keep this land zoned as industrial or other compatible use. It is very interesting that the developer's application for a Planned Unit District does not reference the City's Airport Hazard Zoning Regulations nor does it include the Airport Noise Zone Map among the dozens of exhibits included in the application. This is curious

given the close proximity of the airport and the potential sensitivities of residents. My apologies if it is buried somewhere within the application.

3. The City has adopted the 1987 Airport Master Plan. The proposed development is clearly incompatible with that plan. The noise contours adopted by ordinance and the forecast 2003 noise contours included in the Land Use Plan depict noise levels of 65 ldn and above over much of the subject property. The Master Plan and the City's Airport Hazard Zoning ordinance list residential development as incompatible in areas of 65 ldn and above. Until 2001, most of the subject property was unincorporated county property. During the 1987 master planning process, the Director of Aviation received some very sage comments from Linda Cox, the City's Planning Manager at the time. Ms Cox stated in her 1986 inter-office communication (attached), *" even though Alachua County has jurisdiction over the affected areas, the impact of aircraft noise illustrated by the LDN contours is important to the City of Gainesville, because of potential liability issues and because the future expansion of the City might well entail annexing the affected area....."* *As stated in the Gainesville Comprehensive Plan, 1980-2000, the City of Gainesville is interested in limiting incompatible development within noise exposure areas in order to protect the capital investment in the Gainesville Regional Airport and prevent unnecessary noise exposure to humans. The following standards are presented in the Comprehensive Plan to guide land use decisions related to Airport Noise Zones" ... (Item.2) "Prohibit the construction of any new residential development in the LDN-65 noise exposure area and encourage sound attenuation insulation for non-residential uses in accord with Federal Guidelines"*. This sound planning philosophy has served to protect the airport for many years and is so critical today.
4. The proposed development is contrary to Objective 9.2 of the Transportation Mobility Element of the City's Comprehensive Plan, dated August 12, 2002. The City's stated objective is to eliminate incompatible land uses within the 65 ldn, 70 and 75 ldn noise contours. The proposed residential development is not in compliance with the Future Land Use Map (figure 31) shown on page 122.
5. The proposed development is contrary to the recommendations made in the Airport's draft 2006 Airport Master Plan Update. Members of city planning staff served on the Authority's Technical Advisory Committee for the update. A City review team was also appointed to review the draft. The plan was revised to reflect the comments of the review team. The review team recommended adoption of the updated master plan by the City Commission last June. The item was tabled as other business between the City and the Authority was worked out. The airport intends to re-submit the updated plan to both the city and the county for adoption and inclusion in their respective comprehensive plans at the earliest possible time.

6. Section 5.4.2 of the 2006 Master Plan Update states that *"regulation of land uses surrounding a public-use airport is critical to the long-term ability of the airport to serve the local community and the air transportation system. Local government land use regulations are the primary method of protecting airports from incompatible developments in areas surrounding airports. In Florida, it is recognized that development constituting a hazard to air navigation and land uses sensitive to airport operations are contrary to public interest."* The plan notes that a large portion of the proposed development lies within the 2003 65 ldn noise contour. This contour was developed based on INM computer generated modeling vs. an FAA Part 150 noise study. The proposed development is contrary to the Future Land Use Map depicted in figure 5-3. Section 5.4.1 of the plan further recommends that the Authority purchase off airport land within the 65 ldn contour, including approximately 139 acres within the area of the proposed development.
7. The proposed development is contrary to Goal 4 of Alachua County's Comprehensive Plan. Policy 4.1.1 of the plan states that *"zoning and other land development regulations shall be updated based on recommendations in the Gainesville Regional Airport Part 150 Study (1986) and subsequent updates, and updates of the Gainesville Regional Airport Master Plan, in order to protect designated airport lands, approach and runway protection zones, LDN (loudness day/night) contour lines and existing and future development adjacent to aviation facilities"*. The proposed development does not conform to the future land uses and LDN (noise) contour lines depicted in Map 7 (AJ-5.009(4) (a) (j) of the plan.
8. The proposed development is contrary to the intent of Section 333 of the Florida Statutes, which calls on municipalities to protect the public investment in airports by adopting compatible land use zoning. Section 333.02 states *"the creation or establishment of an airport hazard and the incompatible use of land in airport vicinities are public nuisances and injure the community served by the airport in question...it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards and incompatible land uses be prevented; and that this should be accomplished, to the extent legally possible, by the exercise of the police power, without compensation"*.
9. There is no question that airport operations will continue to increase to meet the demands of the community. While some buyers may be aware of the airport presence when they move in, changes over time may cause them to reevaluate their proximity to the airport and its impact upon the value of their property and their quality of life. While Florida law requires that a seller disclose information that materially affects the value of the property when the condition is not observable and the buyer does not know about it, Florida Statutes do not require disclosure of a specific list of defects or conditions that may affect the value of property. In the 2004 Regular Session, legislation was introduced to require

disclosure of the fact that a property is located within two miles of the nearest runway as well as a list of other conditions that could affect the property (See HB 947 and SB 2074 (2004)). Such laws exist in other states. Neither of the Florida bills was successful in securing the support of a single committee. The Florida Association of Realtors has opposed specific, mandatory notifications provisions in state law. It is not likely that potential buyers will get an accurate experience of what it will be like to live in this area and can't know how increased airport activity will affect them in the future.

10. The Airport Authority is concerned about the plans for controlling storm water created from the proposed development. The creation of additional ponds or areas of standing water near the airport clear zone will create additional bird activity in areas where aircraft are very low on approach to landing and departure. The development is right in the approach and departure flight paths for Runway 11/29. Bird strikes and bird ingestion by jet engines represent a very serious hazard to flight safety and causes significant aircraft damage industry wide. Natural wetlands around airports in Florida and coastal regions are often unavoidable, but we do not wish to add to the problem directly beneath the runway approaches.
11. Enclosed for your consideration in land use planning is a study of aircraft crashes in and around airports. The study was conducted by the Institute for Transportation Studies at the University of California, Berkeley. The purpose of the study was to develop an accident database of crash locations for consideration in developing land use regulations in runway approach zones. The proposed Hatchet Creek development begins less than 3,000 feet from the airports main commercial runway. It is obvious from the study results that it is better to keep development farther away from runway ends from an accident perspective.

12. EDWARD FOSTER, ET AL V CITY OF GAINESVILLE,
(Case no. 88-2556-CA)

The proposed development may serve to set up both the city and the airport for future lawsuits for loss of property value /inverse condemnation. In September 1988 the city was served with the first of several lawsuits for inverse condemnation. The city was sued by four property owners and the lawsuits were subsequently consolidated. Plaintiff's originally sued for \$406,000 in damages to their properties due to changes in airport operations. The city lost on appeal and was forced to pay a \$1.5 million dollar judgment in 1994.

Plaintiff's homes were within the city's adopted noise zones at distances between 3,460 ft. and 3,990 ft from the runway threshold. These homes were on the opposite end of the runway from the proposed development but were actually a few hundred feet further away from the runway threshold and further offset from

the runway centerline than some of the residences proposed in the Hatchet Creek plan. Like some of the proposed Hatchet Creek residences, Plaintiff's homes were on property identified for airport acquisition in the airport master plan (2006 vs. 1987 editions, respectively) Plaintiff's claimed damages and diminished property values due to noise, vibration, fear of low flying aircraft, airport lights, fumes and residue deposited on laundry, outdoor barbecues and gardens. One of the plaintiffs, Louretha Quarles, claimed she suffered a stroke due to the stress from airport noise, fear of low flying airplanes and the trial. Plaintiff's argued that aircraft flew as low as 220 ft. Please note that this is a higher altitude than that expected over much of the Hatchet Creek development. After the plaintiff's were paid and their homes vacated, it was decided that residential use of the structures was not recommended and the structures were razed.

Please take notice of some of the case law that was referenced in the appellate court decision:

Brooks v. Patterson -3150.2d (Fla 1947)

The Florida Supreme Court granted relief to plaintiff where aircraft at a nearby airport were taking off and landing over plaintiff's property at altitudes below 500 ft. above the ground. The court stated "under this decree we must assume that the defendants (*airport*) will adopt rules and regulations governing the uses of the airport, which, among other things, will reasonably prohibit planes being flown over the property of Plaintiff's at a height less than will be required to prevent the vibration caused by the operation of the plane, doing damage to the house or other property, and will reasonably eliminate shock and fright being reasonably experienced by persons occupying plaintiff's property. Such rules and regulations should be based on findings of fact and thereon fixing the minimum reasonable height at which planes may be flown over the property of plaintiffs."

Hillsborough County Aviation Authority v. Benitez

Jet Aircraft at Tampa International Airport approached plaintiff's homes at altitudes of 250 ft. to 500 ft. Plaintiffs sued to compel taking of an avigational easement. The court found that flights below 500 feet invaded the super-adjacent airspace of the plaintiffs. The court noted: "it has been said that there is no single test for discovering in all cases when an avigational easement is first taken by overflights. Some annoyance must be borne without compensation. The point when that stage is passed depends on a particularized judgment evaluating such factors as the frequency and level of the flights, the types of planes, the accompanying effects, such as noise, falling objects, the use of the property, the effect upon values, the reasonable reactions of the humans below and the impact upon animals and vegetable life."

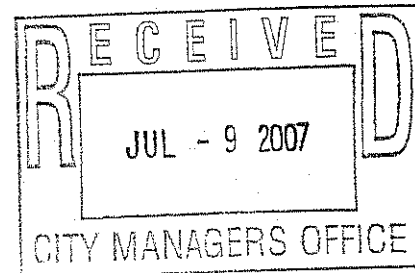
I found the following of interest regarding the rights of the Hatchet Creek developer. I am sure the City Attorney has extensive expertise in this area and can determine if this argument has merit:

Department of Environmental Regulation v. Mackay, 54450.2d 1065 (Fla 3rd DCA 1989) "A taking may occur where regulation leaves no economically viable use of the property". Restated, "No taking occurs if a reasonable use of the property remains". (Gilson v. Alachua County 55850.2d 1030 (Fla 1st DCA 1990) the developer knew the area was near an airport and zoned Industrial and R-1 when he purchased the property. These uses are still available to him; however **we are still opposed to any residential use within the current or forecast airport noise zones.**

GAINESVILLE REGIONAL AIRPORT

July 2, 2007

Mr. Russ Blackburn, City Manager
City of Gainesville
PO Box 490, Station 06
Gainesville, FL 32602-0490



Re: Hatchet Creek Planned Use Development Proposal
Petition # 23LUC-07PB

Dear Mr. Blackburn:

As you know, the Gainesville-Alachua County Regional Airport Authority is very concerned with the above petition and does not support residential development or other non-compatible land uses in close proximity to airport runway ends or noise sensitive zones. We trust that the city staff will do significant research into airport noise issues and provide detailed and substantial justification to the City Plan Board and the City Commission to support any recommendation in this regard. I applaud your decision to hire an aviation noise consultant to examine this issue. Please grant the consultant and staff sufficient time to thoroughly investigate all consequences related to this development and make a thoughtful analysis.

In order to help staff with their investigation, I have provided the following documents:

- 1) 14 CFR Part 150 – Airport Noise Compatibility Planning
- 2) “Land Use Compatibility and Airports, A Guide for Effective Land Use Planning”

I also call your attention to the resources available in the FAA Airport Noise Compatibility Planning Toolkit. The Toolkit is available at:
www.faa.gov/about/office_org/headquarters_offices/aep/planning_toolkit/
and includes some valuable links for information regarding this issue.

Please consider the following comments and add them to those in my letter and attachments of April 2, 2007.

The federal government spends hundreds of millions of dollars each year on airport noise mitigation and preventive measures. There are simply not enough federal dollars to mitigate existing noise conflicts or to purchase sufficient land and aviation easements to prevent new ones. As you know, the FAA has no jurisdiction over local land use; it is up to local governments to ensure compatible land use around airports and protect them from encroachment.

The FAA Southern Region is responsible for federal efforts to improve airports, minimize adverse environmental impacts and support noise compatibility and reduction programs in the south eastern U.S. In 1998 the FAA established a Land Use Planning Task Force and determined that the attached resource guide was necessary to assist local land use planners. The Task Force included members of city and county planning departments, state and federal officials and airport consultants. I trust that the City of Gainesville will weigh heavily the recommendations of this group.

I call your attention to just a few items in the attached planning guide. A Land Use Noise Sensitivity Matrix is shown on page V-10. This matrix clearly shows that residential use is considered incompatible with average noise levels of 65DNL and above. The FAA's adoption of the 65 DNL contour has always been a compromise between competing interests and FAA's ability to fund noise related costs. The 65 DNL is mainly significant because it sets the limit at which FAA will fund noise mitigation projects. The EPA and various interest groups believe that the 65 DNL is insufficient for the protection of human health and well-being. The DNL/ldn metric has also been controversial because, as an average measurement, it does not take into account the negative effects of single noise events. Many cities are choosing to enact standards eliminating new residential development in the 55-60 DNL range to better protect residents and avoid future airport conflicts. In fact the City of Naples recently enacted a 60 DNL noise contour around their airport. Airport noise is a significant problem for Naples and other communities in south Florida. The City of Naples recently spent 3.5 million dollars to defend itself in a lawsuit against the FAA. The city felt pressured by residents to set limits on the types of aircraft that could utilize the airport. The airport was sued by the FAA; the federal government believes only it can approve operational changes that affect interstate air commerce. Please consider the sobering comments found on page V-29 of the planning guide. *"When either an Airport Sponsor's or a non-airport sponsor's jurisdiction allows additional incompatible development within the airport's noise impact area, it can result in problems for the airport owner in the form of inverse condemnation or noise nuisance lawsuits, public opposition to proposals by the airport owner to expand the airport's capacity, and local political pressure for airport operational and capacity limitations to reduce noise."*

The Airport Authority is very concerned about the possibility of noise damage claims from future residents of Hatched Creek. Please ask the city attorney to carefully review the potential liability of allowing residences within a 65 DNL noise zone. The courts have held that even if residents are warned they have purchased within a 65 DNL noise zone, they can still sue for damages if they can prove a substantial increase in airport related noise. The courts have found an increase of just 1.5 DNL to be a "substantial increase". Much of the proposed Hatched Creek development would be within the 65-70 DNL zone. We cannot predict when a change in the character and number of aircraft operations will result in a 1.5 DNL increase. We have not identified the baseline average DNL noise level for each residence or cluster of residences in the proposed development. We also don't know how much effect the large scale removal of vegetation, paving and construction may have on noise attenuation as compared to the conditions existing during the 1985 FAA Part 150 study.

Please ask the city attorney to review 14CFR Part 150 and page V-30 of the attached Planning guide. This section covers FAA funding eligibility for future noise mitigation. Effective October 1, 1998, FAA will only fund remedial noise mitigation for pre-existing, incompatible developments. If the City of Gainesville allows Hatchet Creek to go forward as proposed, FAA funds may not be available for court ordered damages (noise easements) or sound proofing of residences. The city relied heavily on FAA funds for damages when it lost the Foster case in 1994. As you know, this judgment was for \$1.5 million for just four properties. The original total appraised value of these properties was approximately \$400,000. The Hatchet Creek development will have more than 1,100 residences. The developer's current application requests up to 2,900 dwelling units. Even a few damage claims by residents could put the Airport Authority and the city at serious financial risk. As you know, FAA has already put us on notice that funding for even basic airport capital projects may be threatened if the city backtracks on existing land use protections.

In order to secure future FAA eligibility for noise mitigation funds, I believe it is vital that no new residential construction be allowed in close proximity to the 65 DNL contour until a new Part 150 study can be completed. FAA will not support mitigation efforts if noise contours are more than five years old. A computer model of the 65 DNL contour generated in 2003 was similar to the 1985 contour; however, the 1985 study is the study of record. Noise contours will vary from year to year depending upon the time and frequency of aircraft operations and the noise characteristics of commonly used aircraft types. Both the number of operations and the frequency of night time operations at the airport are expected to continue to increase.

A new Part 150 study would include updated noise exposure maps and a Noise Compatibility Program. In order to qualify for federal funds, acquisition of land, aviation easements or other mitigation efforts must be identified in an FAA approved Noise Compatibility Program. The existing Noise Compatibility Program included the purchase of land in the area of the Foster property but does not include land or easement acquisition in the area of Ironwood. This was rationalized at the time because the planners deemed it unlikely that significant residential development would occur in this area. The study noted that the property was wet, the county had no plans to locate sewer or water to the area and residential density was expected to be less than one unit per five acres. The record shows that city staff recognized the possible annexation of the area and warned of the need to improve zoning to protect the airport and the well-being of potential residents. A new Part 150 study may take several months to complete and involve several public meetings.

I believe the City of Gainesville erred in allowing much of the area around Ironwood to be zoned residential in 2003, subsequent to annexation by the city. I have enclosed a copy of the meeting minutes from the City Plan Board meeting of January 16, 2003 including a copy of staff's recommendation (petition number 130LUC-02 PB). Mr. John Wachtel of city planning staff explained that for expediency, staff was content to "match the existing county zoning as closely as possible unless there was a compelling

reason not to do so". We know that county zoning maps do not always reflect the preferred land uses shown in the County Comprehensive Plan. Mr. Wachtel related that staff reviewed surrounding uses for compatibility and tried to avoid spot zoning when possible. Unfortunately, staff did not consider the airport noise zones established by city code and there is no record of any discussion concerning airport compatibility. This is unfortunate as there were several existing planning documents that show residential development in this area as undesirable. The City of Gainesville 1980-2000 Comprehensive Plan presented standards for land use decisions in airport noise zones, including prohibition of residential construction within the 65 DNL noise contour and a requirement for sound insulation for any new construction within the 60 DNL noise contour. Staff also did not take into account the recommendations in the County Comprehensive Plan, the city's FAA Part 150 Noise Study and the city approved Airport Master Plan (1987). All of these documents clearly show residential development on the Hatchet Creek property as undesirable. Judging from the public record, it appears the Plan Board was not made aware of this conflict. Perhaps the airport was "not on the radar", since it had not been the subject of any major noise controversy since 1994. We hope to continue to be a good neighbor, free of major noise controversy and financially secure from noise damage claims. This is precisely why the airport and city planning staff need to work together now to address the Hatchet Creek proposal, update the FAA Part 150 study and related airport hazard/noise ordinance and to sufficiently integrate the most recent airport master plan into the city's comprehensive plan. These efforts need to be coordinated with the county as well. Some noise sensitive areas to the north lie within the county's jurisdiction.

The adoption of R-1 zoning west of the golf course has already compromised airport protection. Further relaxation by allowing higher densities or multi-tenant structures in the existing R-1 and residential development in the I-1 will prohibit future use of federal funds for mitigation and places FAA capital funding at risk. We do not support any residential development within the 65 DNL contour. The developer has other options for these areas. He may locate parking lots, common use recreational areas, pool, clubhouse, sales offices and storm water facilities in this zone. He also has a significant amount of commercial development in his proposed PUD. These may also be located within the 65 DNL - 70 DNL zone.

Should the city allow this development go forward, the developer should be required to grant sufficient aviation easements (protecting against noise and other aircraft related nuisances) to the airport for **all** residential properties associated with his PUD and to require sufficient sound insulation and other construction techniques to reduce interior noise levels by 25 - 35 db. Offending noise does not stop at the 65 DNL contour. The developer has no rights to develop higher density housing in the R-1 areas unless granted that right by the city. In exchange for this right, and to the extent allowed by law, residents, heirs, successors, etc. should be required to give up any legal right to future noise claims as the entire development is close to or within airport noise sensitive areas. These easements should be provided gratis. Orange County California, for example, requires all developments within the 60 CNEL (similar to DNL/ldn) to grant to airports aviation easements for the entire project. Many other communities require developers

to provide easements in order to develop close to the airport. The footprint of noise sensitive areas is likely to expand over time and residences currently outside the 65 DNL may lay future claim against the airport. (Please reference United States vs. Causby, Griggs vs. Allegheny County and subsequent case law.)

Also, while the proposed development is directly under the approach and departure path for Runway 11-29, the development is also located beneath the traffic pattern for Runway 7-25. We have significant pilot training activity at the airport, both military and civilian. Most jet aircraft and large military transport aircraft practice on Runway 11-29. Most primary civilian training occurs on Runway 7-25. Light trainers utilizing Runway 7 will also operate low over the Ironwood area as they transition from base leg to final approach. Students typically fly many practice "touch and go" operations in a session. While noise decibel level may not be as loud as jet activity, the nuisance factor can be very high due to frequency. Avigation easements may help us resist pressure to curtail training activities on both runways.

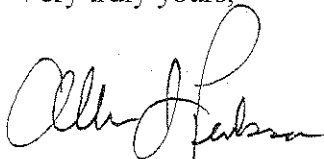
While we encourage the city to require avigation easements and sound insulation for residential development outside the 65 DNL, we do not support a policy that permits developers to substitute these measures in exchange for development rights within the 65 DNL zone. Please research the Florida statutes and case law regarding "overburdening" of easements. Even with an easement, the possibility of future claims due to increased airport activity concerns us. The airport must continue to have the freedom to increase the number of flights, change overflight areas, change flight times and type of aircraft without risk of "overburdening" easements and triggering damage claims. Also, easements and sound insulation cannot maintain harmony with new residents as airport operations change and perceived noise increases. An easement will not deter residents from applying political pressure to restrict airport operations. The protection easements offer to us is limited. They do not result in "happier" residents and are not a substitute for fee simple purchase or compatible land use zoning.

The Airport Authority has requested that for the purpose of this development application and all future proposals within close proximity to the airport, that airport comments receive equal weight to those received from city departments. We ask that these comments be added to those previously received from airport staff, be entered into the public record and made available to the City Plan Board prior to its public meeting on this issue.

I understand the city may have not yet executed a contract with the airport noise consultant. We ask that the City Plan Board meeting be delayed until such time as the consultant has had time to research the issues and prepare his recommendation. I further request that city staff share their recommendation with us sufficiently in advance of the City Plan Board meeting so that FAA may determine its affect on future airport funding. More appropriately, I hope city staff and your noise consultant will coordinate their efforts directly with the FAA Orlando Airports District Office.

Thank you again for considering our concerns. I am confident that once this issue is thoroughly researched, city staff will make the proper recommendation to the City Plan Board.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Allan J. Penksa".

Allan J. Penksa, C.M.
Chief Executive Officer

cc: City Commission Members
Mr. Ralph Hilliard, City Planning Manager
Mr. Dean Mimms, City Planner

wetland area or upland preserve

Single Family Residential

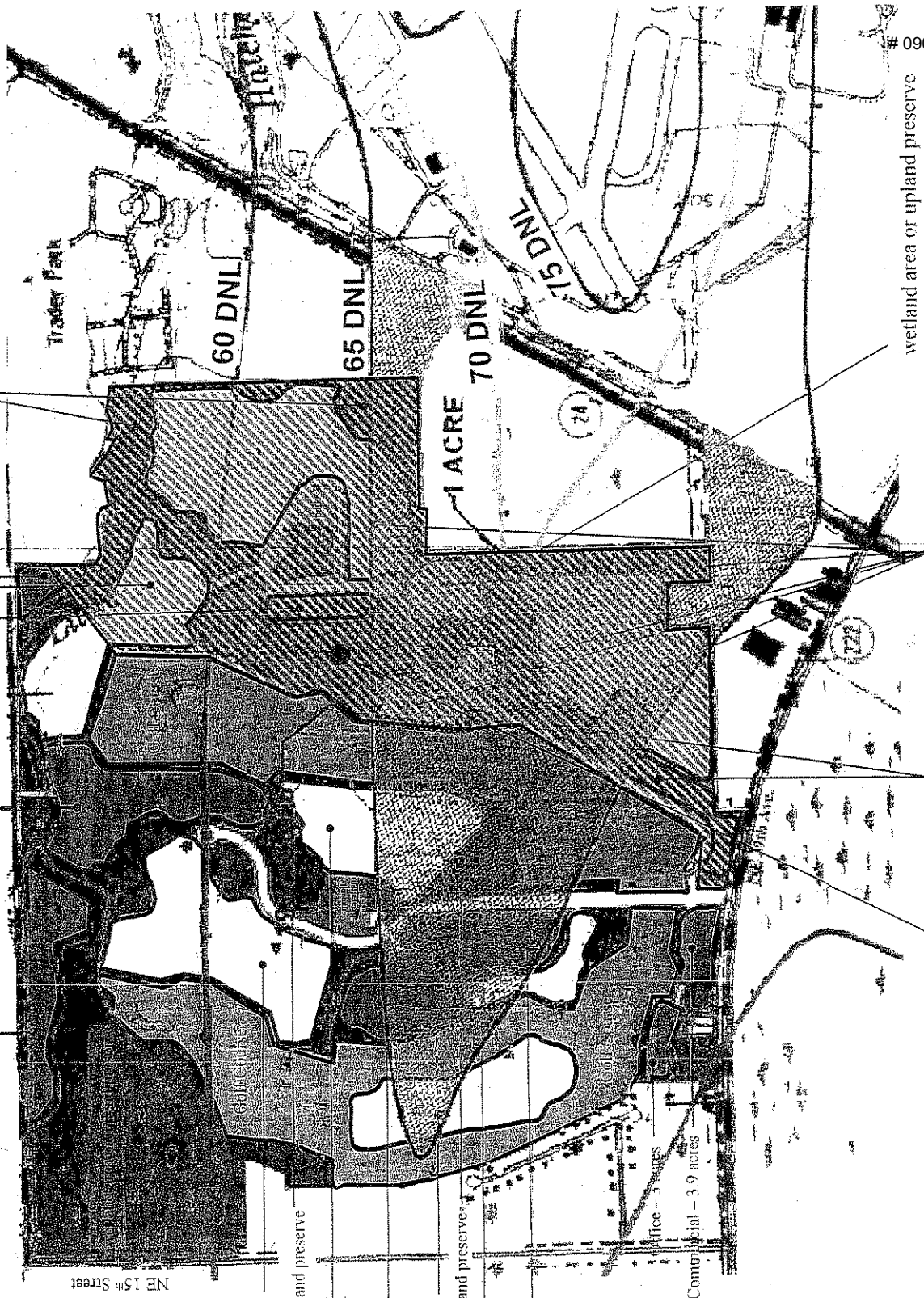
Commercial - 3.1 acres

Multi Family Residential

Commercial - 12 acres

NE 53rd Ave.

NE 15th Street



Single Family Residential

wetland area or upland preserve

Single Family Residential

Multi Family Residential

Single Family Residential

wetland area or upland preserve

Single Family Residential

Multi Family Residential

Tree - 3 acres

Commercial - 3.9 acres

Trader Park

60 DNL

65 DNL

1 ACRE

70 DNL

75 DNL

wetland area or upland preserve

Multi Family Residential

Single Family Residential

Area Zoned Industrial

