

1 otherwise the evidence gets lost.

2 MR. HIGMAN: Whatever. I'm not a lawyer.

3 MR. SALAFRIO: Anything else for me?

4 MR. HIGMAN: Any further questions for Mr.  
5 Salafrio? If not, thank you, sir.

6 MR. SALAFRIO: Thank you.

7 MR. HIGMAN: Thank you, sir.

8 (Petitioner's Exhibit 1 was marked.)

9 DR. DEPEW: You get me back. I'm sorry. I'll  
10 apologize now. I have to also submit documents to  
11 the court reporter, which will additionally be  
12 submitted to the clerk.

13 If I could get the overhead put on --

14 THE CLERK: Excuse me, Mr. Chair. If we can  
15 get a listing for the record of what it is that she  
16 is submitted to the clerk (sic) so we can have a  
17 copy of it, that will be fine.

18 DR. DEPEW: Yes, ma'am, we'll be happy to do  
19 that.

20 MR. HIGMAN: Ms. Boyes, will you be willing to  
21 provide the clerk with a listing of the exhibits  
22 being provided to the reporter so that our clerk  
23 will know what to expect?

24 MS. BOYES: We don't have a list prepared.  
25 We'd be happy to identify it for the record.

1 MR. HIGMAN: Well, may be you could write down  
2 on a piece of paper --

3 MS. BOYES: Absolutely.

4 MR. HIGMAN: -- and provide that to the clerk?

5 MS. BOYES: Certainly.

6 MR. HAVILAND: Mr. Chair, I'm concerned that  
7 things are being submitted that this board actually  
8 doesn't get to see.

9 MS. BOYES: Mr. Chair, these are all exhibits  
10 that were admitted into evidence at the last  
11 hearing. They're in the record. We're simply  
12 bringing them forward into your record here this  
13 evening since we're under a new petition number.

14 MR. HAVILAND: Then they should be presented  
15 to this board then.

16 MS. BOYES: That's what we're doing. We're  
17 simply reintroducing them into the record. It's  
18 nothing new. We had extensive discussion about  
19 this letter the last time.

20 MR. HAVILAND: And not only that, there are  
21 new board members that are not aware of --

22 MR. HIGMAN: We have a member of the staff  
23 standing, may be he'll clarify how you think --

24 MR. HILLIARD: At a minimum, Mr. Chair --

25 MR. HIGMAN: Why don't we pass it down the

1 line --

2 MR. HILLIARD: That's what I was going to  
3 suggest. At least you'll see what it is. You may  
4 already have it in your packet, but the rate this  
5 -- we have no idea on the record of what this  
6 letter even is, no date or nothing. They just said  
7 Exhibit 4 (sic), so I think you really need --

8 MS. BOYES: I said Exhibit 1.

9 MR. HIGMAN: Ms. Boyes, if you would start  
10 maybe here to my right and let the board look at it  
11 so they're comfortable with what we have.

12 MS. BOYES: Mr. Chair, absolutely.

13 MR. HIGMAN: Then we'll get it to the court  
14 reporter and you will make a note of what it is for  
15 our clerk. Is that satisfactory?

16 MS. BOYES: Absolutely. This was previously  
17 admitted as Exhibit 4 for petitioner at the last  
18 hearing.

19 MR. HIGMAN: I vaguely remember that letter.

20 MS. BOYES: Right. It's marked on here as  
21 Exhibit 4 from the last hearing. And the court  
22 reporter has marked it as Exhibit 1 for tonight.  
23 So we'll put today's date on it. And absolutely  
24 we'll provide this to the chair.

25 DR. DEPEW: I've got a brief set of things

1 that I want to go through there.

2 The history of this -- and let me put this  
3 back up for our purposes here. We if we go out a  
4 little bit with the overhead, please.

5 That goes back to the 1999 Dunn plan. I'll  
6 refer to that as the Dunn plan from time to time.

7 In August of 1980 there was an area-wide  
8 drainage plan developed for this area, this  
9 particular portion of Alachua County. It was  
10 adopted by Alachua County. It was intended to  
11 address the drainage in this particular project  
12 subbasin.

13 Subsequent Suwannee River Water Management  
14 District permits issued were done in compliance with  
15 that plan. That plan was called the Hasan plan.  
16 And it controlled the drainage throughout this  
17 particular area. And still does to this day.  
18 That's the first element of history that's  
19 important.

20 The activities that have occurred throughout  
21 this Blues Creek area have done so in accordance  
22 with the general provisions of the Hasan plan that  
23 the district and the county adopted.

24 July 21st of 1981, the county adopted zoning  
25 for this particular development. That's the zoning

1 resolution that was adopted. It's not very clear.  
2 I'm sorry. I am going to submit that to you. I'll  
3 be happy to give it to you right now, Mr. Chairman  
4 and let you pass it down there, but that is the  
5 original zoning resolution that was adopted July  
6 21st of 1981.

7 MR. HIGMAN: Was that at our previous  
8 presentation?

9 DR. DEPEW: It was, yes, sir.

10 MR. HIGMAN: I believe that I remember that.

11 DR. DEPEW: I'm going to go ahead and mark  
12 that Exhibit Number 2 and I will give that to you,  
13 Mr. Chairman.

14 (Petitioner's Exhibit 2 was marked.)

15 DR. DEPEW: That required the PUD that was  
16 approved by the county not only to be in  
17 conformance with the Dunn plan, which you see  
18 before you now, but also to be in conformance with  
19 the property development regulations of the R1A and  
20 the R3 districts provided for a phase development  
21 and ultimately it was tied to this site plan, the  
22 Dunn site plan, which is a '99 site plan that came  
23 through without going through every step of the  
24 permitting process that came through ultimately and  
25 was applied to that particular PUD.

1           The majority of the Blues Creek Development,  
2 just to say the areas in here and in here, were  
3 annexed into the city in 2001 and 2002.

4           The subject property, which is the Unit 5  
5 section of the development was annexed in March of  
6 2005. The city adopted PD zoning for the subject  
7 property. And the staff report, which is  
8 identified as 49ZON-05DB stated that to avoid  
9 creating that to avoid creating incompatibilities,  
10 non-conformities and confusion, the proposed PD  
11 zoning will be implemented by the PUD ordinance  
12 approved by Alachua County when the property was  
13 initially proposed for development. Therefore,  
14 should this petition be approved the development  
15 regulations approved by the county within their PUD  
16 ordinance would be adopted and remain in place by  
17 the city so that future improvements or  
18 redevelopment of the property would be consistent  
19 and compatible with development in the vicinity.  
20 That's what was adopted. City Ordinance 0-05-05  
21 enacted that particular language. It was zoned PD.  
22 And as exhibits to the approved zoning at that time  
23 there were included that zoning resolution and this  
24 site plan, the Dunn site plan.

25           It was approved, as I said, originally in

1 1981. It has been under development since that  
2 time. If we go back to the aerial photograph --  
3 which I'm not going to do -- but if we go back to  
4 the aerial photograph you'll see that the  
5 development has progressed basically in kind of a  
6 circle around the drainage easement.

7 Significant infrastructure or improvements  
8 were undertaken by the developer based on the  
9 approved site plan. There was significant  
10 investment in water and sewer and the various other  
11 utilities and roadways and drainage, some of which  
12 we've already discussed. Indeed, the drainage  
13 structure in Phase 1 of Unit 5 is one of the  
14 issues, I believe, with the staff report.

15 It's an ongoing development. It's consistent  
16 with the adopted plans and; therefore, I would  
17 submit to you it is also controlled by the cities'  
18 vested rights provisions. There are vested rights  
19 associated with this, in my opinion. And we  
20 believe that the developer has the right to  
21 continue the development relying upon the approvals  
22 that have been done in the past.

23 Talking just a little bit about the drainage  
24 easement. I have a copy of the drainage easement  
25 for you.

1           When you get a look at this, you'll see the  
2 balance of this, two pages of legal descriptions  
3 and there's one little page of the foregoing  
4 instrument the easement is actually the first page  
5 of this.

6           I'm going to mark that as an exhibit and  
7 provide that to the chair as well.

8           MR. HIGMAN: Was that presented at the last --

9           DR. DEPEW: It was, yes, sir. I'm going to  
10 mark that as Exhibit 3 and I'm going to put today's  
11 date on it as well. And if Ms. Boyes will pass  
12 that to the chairman.

13 (Petitioner's Exhibit 3 was marked.)

14           DR. DEPEW: You can see clearly that's the  
15 easement, that's what was recorded.

16           The purpose of the easement was referenced in  
17 the zoning condition that you got. And condition  
18 one talks about a previously approved master  
19 drainage plan and a storm water management plan  
20 from the Hasan days as well.

21           The easement references the Devil's Creek LTD,  
22 San Felasco Villas Venture and Millhopper  
23 Development Corporation as predecessors and  
24 interest on the subject property. It is part, as  
25 Mr. Salafrio has noted, of an area-wide storm water



1 management plan. The easement does not refer to  
2 conservation preservation or mitigation and no  
3 permits were tied to the area of the easement other  
4 than the surface water management permits.

5 Nevertheless, as staff has pointed out and you can  
6 see when you look at this plan, it's labeled in the  
7 middle, drainage easement developed recreation and  
8 conservation area.

9 No prior credit has been issued for  
10 preservation, conservation or mitigation in the  
11 easement area. The city code, also I would submit  
12 to you, does not suggest that conservation,  
13 preservation and mitigation are mutually exclusive  
14 concepts. And as such I would suggest to you that  
15 there's nothing in the code that says we should not  
16 undertake mitigation efforts in an area such as  
17 this if, indeed, they are warranted. As Mr.  
18 Salafrio has told you they are warranted. There  
19 are areas in this drainage easement that are  
20 damaged and can be used as mitigation and  
21 enhancement areas to promote the enhancement of  
22 this drainage easement area.

23 We had a fair amount of discussion at the last  
24 hearing about the differences between the state and  
25 the cities' codes. I would simply tell you there

1 are some rather significant differences in the way  
2 the city handles impacts to wetlands. There is,  
3 for example, a test as to whether or not the  
4 development is not contrary to the public interest  
5 that the state undertakes, whereas the city  
6 undertakes one in determining whether it is clearly  
7 in the public interest. There's a bit of a  
8 different standard. So there is some differences  
9 here.

10 Nevertheless as Mr. Salafrio has pointed out  
11 to you, water management district has issued  
12 permits for this in an earlier incarnation where  
13 greater impacts were taking place. And under a  
14 review that is really mandated now by the state,  
15 the UMAM review, that is a very significant type of  
16 review and provides a certain uniformity statewide  
17 for these sorts of things.

18 We've touched on this briefly a little bit  
19 ago, but going back to this point, you can see  
20 there's a rather substantial number of lots in this  
21 area. There are also some mitigation points that  
22 are -- and preservation points that are located in  
23 here, but there's a really quite a significant  
24 number of lots. Many, many more than what you see  
25 in the current site plan for this particular area.

1           As I said, it has been nibbled and nibbled and  
2 nibbled. It has reduced the lot count by quite a  
3 substantial number. And I would submit to you that  
4 the reduction of another 10 to 12 lots through the  
5 complete removal of Phase 3 on this site plan  
6 before you is not consistent with the original  
7 development plan. It is simply not fair for the  
8 developer, who has based his overall investments  
9 throughout this project on the ability to continue  
10 developing that project in accordance with that  
11 site plan.

12           We believe that, as amended, the development  
13 meets the criteria for ongoing development. We  
14 believe that the development plan is really, in  
15 many respects, vested from the approval of the  
16 original plan development plan. And that the city  
17 code provisions have been complied with insofar as  
18 they can be complied with as long as they're not in  
19 contradistinction -- or contradiction of the state  
20 requirements.

21           At the last hearing I also submitted an  
22 affidavit which is a bit dated now, but I'm told  
23 that I need to resubmit it. And so I'm going to  
24 provide you with Exhibit Number 4 and date this.

25 (Petitioner's Exhibit 4 was marked.)

1 DR. DEPEW: And what it is it's a letter from  
2 me to Ms. Boyes on September 12th, 2006 and an  
3 affidavit from me that resulted -- that was  
4 something from September 14th of 2006, regarding  
5 the elements of my study and some of the elements  
6 of the economic impacts.

7 As I said, this is a bit dated. The economic  
8 impacts are different at this point, but I'm told I  
9 need to submit that for the record as well.

10 MR. HIGMAN: I remember that. Do you have any  
11 other exhibits to refer to us?

12 DR. DEPEW: I have a copy of the Power point  
13 presentation that you saw.

14 MR. HIGMAN: We saw that and I think we're  
15 familiar with that.

16 DR. DEPEW: I'm going to give that to the  
17 court reporter then and simply let her have a paper  
18 copy of that. That's Exhibit 5.

19 (Petitioner's Exhibit 5 was marked.)

20 DR. DEPEW: I have a series of maps that Ms.  
21 Boyes has suggested that I give you. They are from  
22 a variety of city documents. That is the  
23 environmentally significant land and resources map  
24 that depicts creeks, lakes and wetlands.

25 I also have the city surface water and

1 wetlands district map. On this one I'm going to  
2 simply circle the area that we're discussing.

3 I also have another map that was prepared by  
4 the Department of Community Development of the City  
5 of Gainesville that shows Gainesville's creeks.  
6 And, again, I circled the area that we're  
7 discussing.

8 I have a map that is the annexation history  
9 that shows the area in question. And, again, I'm  
10 circling the area in question.

11 I would submit all of those as a Composite  
12 Exhibit 6. And Mr. Chairman, you may want to take  
13 a look at these. I'll be more than happy to bring  
14 them up to you, but they're basically part of the  
15 cities' materials.

16 (Petitioner's Exhibit 6 was marked.)

17 MR. HIGMAN: Does anyone on the board want to  
18 look at those? Go ahead and give that to the court  
19 reporter. But, please, Ms. Boyes, if you'll note  
20 what they are for our clerk, we'd appreciate that.

21 Is there anything else, sir, because I think  
22 you've reiterated a number of things that we heard  
23 from the other speakers and unless there's  
24 something new I would hope that you could wrap it  
25 up for us.

1 DR. DEPEW: The last thing I wanted to touch  
2 on was simply our request to you tonight. And that  
3 request is simply for approval. We would agree  
4 with the conditions that concurrency management has  
5 proposed. We would agree with the engineering  
6 conditions with the exception of condition number  
7 9. I don't know if you want me to go through each  
8 of these and --

9 MR. HIGMAN: No.

10 DR. DEPEW: Let me just start with engineering  
11 except condition number 9. Condition number 9  
12 basically says the roadway through a  
13 wetland/wetland buffer area is undesirable. Final  
14 plans may prove this alignment to be problematic.

15 Well, we understand the feeling on that one,  
16 but nevertheless that's the condition that we have  
17 the difficulty with, simply because we understand  
18 that it's problematic. We've gone through the  
19 progress of preparing mitigation and we've been --  
20 we're trying to work with this as best as we can.

21 MR. HIGMAN: I think we've got that.

22 DR. DEPEW: The solid waste, not a problem.  
23 The Gainesville GRU conditions not a problem. The  
24 building conditions not a problem.

25 Fire problematic. We understand they don't

1 want really long cul-de-sacs. The physical  
2 peculiarities of the site are such that there  
3 really is no other option to do that short of, as  
4 noted here before, completely eliminating Phase 3,  
5 which we simply can't afford to do. So that one  
6 we've got a bit of problems with.

7 Police, no problem. Arborist no problem.  
8 ACPD was no involvement.

9 As far as the environmental coordinator, I  
10 mean, this is the big issue, wetland B and wetland  
11 A, we've got a couple of small impacts to the  
12 wetlands and we've got impacts to the wetland  
13 buffers.

14 Likewise with planning, I think Mr. Reyes also  
15 has discussed some of those. Unless there's  
16 questions about those, I don't intend to address  
17 them in any detail, other than to say we believe  
18 that we have addressed all of the substantive  
19 conditions that have been raised by planning.

20 There's a couple that -- things like numbering  
21 the design plat sheets and things like that, there  
22 may be some discrepancies with numbers, we  
23 understand, then that's not a problem, we can take  
24 care of that.

25 MR. HIGMAN: Are there any questions from the

1 board regarding this?

2 MR. BOYES: The fire issues are the --

3 DR. DEPEW: I'm sorry, Mr. Boyes, I couldn't  
4 hear you.

5 COURT REPORTER: I didn't understand.

6 MS. BOYES: I think Mr. Boyes said that as far  
7 as he's concerned the fire issues are the biggest  
8 concern he has at this point. And I think we all  
9 agree long roads with only one access are a problem  
10 and the public safety issue is important.

11 Anybody else?

12 MR. BOYES: Well, I think on the prior issue  
13 there was different testimony. We got one option  
14 driving through a creek to get there as a secondary  
15 access. It was thrown out by an engineer.

16 We had another issue stating we're not going  
17 to do anything like that.

18 What is the final position of the applicant on  
19 that?

20 DR. DEPEW: Again, we believe that the fire  
21 issue is not a mandatory issue. We believe that  
22 the physical peculiarities of the site are such  
23 that there's really not anything else in the way of  
24 an option, other than to provide a longer  
25 cul-de-sac. And we really don't want to provide a



1 stabilized surface across that creek. We just  
2 don't think that's the way to go.

3 We understand the fire department's concerns  
4 and we'll work with them to see what else we can  
5 do, but we just don't see that there's anything  
6 physically possible to do other than have that  
7 longer cul-de-sac.

8 MR. HIGMAN: Anybody else?

9 MR. BOYES: On that issue then, something like  
10 that isn't it advantageous for people buying the  
11 lot to know on the front-end that they're in a  
12 situation that they can become cutoff. I'd like to  
13 talk to staff about that.

14 MR. HIGMAN: Okay. What we'll do, Mr. Boyes,  
15 if it's okay, I think I see some people from the  
16 public who have been waiting here all night. And I  
17 believe some of them would like to speak to this  
18 issue or they wouldn't have been here. I may be  
19 mistaken. But unless there's anything more from  
20 our board I would hope that the people who have  
21 been waiting all night patiently would be able to  
22 step forward, state your name and give your  
23 comment.

24 MR. HILLIARD: Just two quick points, Mr.  
25 Chair.

1           MR. HIGMAN: Okay. If you will forgive us  
2 we'll let our staff member make one or two --

3           MR. TURCO: I would prefer to have staff speak  
4 first.

5           MR. HIGMAN: Okay.

6           MR. HILLIARD: Because the issue was raised  
7 about vested rights and all of that with the master  
8 plan, please note you have your master plan in your  
9 packet. There's a note that clearly says, Please  
10 be advised that lots indicated on the master plan  
11 that have not been platted are conceptual only and  
12 are subject to revision in both number and shape.  
13 So this pattern of lots in here was never  
14 guaranteed, it was never platted.

15           The last issue is the whole issue about  
16 whether there could be development or any type of  
17 activity in the drainage -- in this drainage  
18 easement area and conservation area is being  
19 referred to legal staff and they will deal with  
20 that issue.

21           MR. BOYES: I got a question. As long as I've  
22 been on the board going back to the dark ages, but  
23 at this point I can never remember us overriding a  
24 secondary access. Is this something that's  
25 happening periodically?

1           MR. HILLIARD: We haven't. We've usually been  
2           able to work out within the subdivisions either  
3           some type of secondary access or a reduction in the  
4           length of --

5           MR. BOYES: Do you know of anywhere a  
6           secondary -- can you think of any before where we  
7           haven't had secondary access?

8           MR. HILLIARD: Mr. Calderon would be closer to  
9           that issue than I.

10          MR. HIGMAN: Could you answer that question,  
11          please?

12          MR. CALDERON: I guess you're asking, Are  
13          there any other subdivision without a secondary  
14          access?

15          MR. BOYES: That is correct.

16          MR. CALDERON: I can't bring to mind any at  
17          this point. Usually we try to give emergency  
18          access.

19          MR. BOYES: To the best of my knowledge that's  
20          the way it's always been. Let's ask the applicant.  
21          Does the applicant have any knowledge of any  
22          approved plans in the City of Gainesville where  
23          secondary access wasn't provided?

24          MR. HIGMAN: Mr. Reyes has done quite a bit of  
25          work in the city as well as the county.

1 MR. REYES: One very clear point is Phase 1 of  
2 the Unit 5, you got only one access, ten blocks one  
3 access right now. We come back to this.

4 MR. HIGMAN: Mr. Reyes, use the overhead, if  
5 we can possibly do it that way.

6 MR. REYES: This is Unit 5, Phase 1, one  
7 access point only, ten lots, one access point at  
8 this point.

9 MR. BOYES: How many feet is that?

10 MR. REYES: How many feet? I don't recall  
11 exactly, Mr. Boyes, how many feet. This secondary  
12 access is extension of the next phases, but that --  
13 we come back to the master plan of Blues Creek.

14 MR. BOYES: Can you measure that. There must  
15 be a scale on there. Go ahead and measure it. The  
16 discussion from the fire department is a thousand  
17 feet. It looked like it was like seven lots. How  
18 wide are the lots?

19 MR. REYES: It definitely a thousand feet, I  
20 would say. We come back to the master plan of  
21 Blues Creek and you can see the recommendation of  
22 Blues Creek. Blues Creek has access through these  
23 roads --

24 MR. HIGMAN: Can you move it up just a little  
25 bit, Mr. Reyes.

1           MR. BOYES: I remember from the last hearing  
2 we discussed this and the secondary access which  
3 was across this wetland feature and this creek.  
4 And at that point --

5           MR. REYES: Blues Creek when it was developed  
6 originally -- and now we realize they have a  
7 secondary access to the other subdivision, but  
8 originally and it still is that on the access in  
9 here there was a secondary access at one point in  
10 there the neighbors to the south -- those of you  
11 guys that are familiar with --

12           MR. BOYES: I'm talking about this Phase 3  
13 thing now. I remember from the last hearing --

14           MR. REYES: The access here? Yeah, there was  
15 a discussion, fairly long discussion.

16           MR. BOYES: -- as discussed had as well and  
17 part of the hearing process.

18           MR. REYES: I'll give you another subdivision  
19 just come to my mind, 8th Avenue, Hillcrest  
20 Subdivision around Northeast 8th Avenue on 50th  
21 Street adjacent to the park, to the city Coffin  
22 Park, that have around almost 2,000 feet, one  
23 access only, just from 8th Avenue.

24           MR. BOYES: Is that the development just on  
25 the other side of Coffin Park?

1 MR. REYES: Yes, yes.

2 MS. COOPER: Is that Hillcrest Subdivision?

3 MR. REYES: Yes, the Hillcrest Subdivision.

4 Very small lots. We developed that too.

5 MR. HILLIARD: There is secondary access  
6 through -- he's talking about Hillcrest through  
7 Coffin Park.

8 MR. REYES: No, there is not.

9 MR. HILLIARD: Well, it should be.

10 MR. REYES: It should be but it's not.

11 MR. HIGMAN: Okay. Again, I thank you for  
12 your presentation. And I now will let the public  
13 who has been patience waiting all night step  
14 forward and speak. Please state your name when you  
15 get to the mike.

16 MR. TURCO: Good evening, Mr. Chairman, the  
17 Board. My name is Michael Turco. I live at 5630  
18 Northwest 80th Avenue in Blues Creek. Directly  
19 across is the applicant's road that he wants to  
20 open up in order to continue development.

21 To address what Mr. Reyes was just saying, we  
22 actually do have two points. He was showing you  
23 the new points as far as exits going through  
24 Weschester, but then we have the main road besides.  
25 So those are the two points.

1           There's a few things that -- I feel like I've  
2 just been a party to listening to a very long and  
3 aggressive attempt to push this through. And so  
4 there's a few things that I wanted to mention.

5           One is in Phase 2, when that's -- if that were  
6 to be developed, that land -- and I've walked the  
7 land in there. That land runs down all the way  
8 into that wetland area. So if you develop Phase 2,  
9 everything you do there, whatever drainage happens  
10 is going to drain on down into those sinkhole  
11 areas.

12           Another thing is the environmental specialist  
13 had stated that we don't fully understand the  
14 function of wetland sinkholes. So now you're  
15 having to base a decision on development if you go  
16 forward and have this development when you don't  
17 know the value of what those wetland areas truly  
18 is.

19           They've also stated that they would be putting  
20 in 283 trees. Well, looking at that land, there  
21 are heritage trees that are there. Those trees,  
22 some of them obviously are going to be in the way.  
23 The 283 trees that they're going to use in  
24 mitigation, are going to be young baby trees. You  
25 have a hardwood forest that is mature and has large

1 oaks, large pines, a gum swamp area, a black gum  
2 that's there and an awful lot of wildlife living  
3 there. I've seen even river otters going through  
4 here.

5 They've spoken about the wetland area in Phase  
6 3 as an easement area. But let's call it what it  
7 is, it's a wetland. And there's, you know,  
8 different ways of looking at that. It's not just  
9 an easement, this is something that we created and  
10 this is where water is going to run. It's not the  
11 same as understanding that this is a wetland  
12 region, this is a natural area.

13 The last thing that I wanted to mention is on  
14 the bottom part of Phase 3 where the creek runs, if  
15 they're going to put a sewer pipe underneath the  
16 creek -- now I've only lived in Gainesville proper  
17 here for about a year and a half. I lived in  
18 Keystone Heights before that for ten years. And  
19 have certainly paid attention to what goes on in  
20 the surrounding areas, Gainesville included.

21 And I've seen accidents happen before,  
22 specifically in Gainesville, where there's been  
23 sewage leakage going into creeks. So there's got  
24 to be some concern in the back of people's minds --  
25 there is in mine -- that if you're going to put a



1 sewer line running underneath a creek, what is the  
2 potential for an environmental hazard at some point  
3 in the future.

4 So these are just some of the things that I'm  
5 concerned with. And I'm new to all of this. I  
6 started looking at this two weeks ago. I found it  
7 very difficult to get information regarding the  
8 petition when I talked to the city.

9 My wife will talk about that some more because  
10 she also talked to the city. So this is all an  
11 eye-opening for us looking at this this evening.  
12 And I've been just making some notes and things  
13 that come to mind for myself.

14 And I thank you for your time.

15 MR. HIGMAN: Thank you, sir. Will the people  
16 who want to speak please begin to step forward.  
17 All of you or more than -- I mean I'm more than  
18 happy to hear you speak, but we'd like you to go  
19 ahead and move forward if we could.

20 MS. GRUNER: Hi, my name is Sue Gruner. I'm  
21 Michael Turco's wife.

22 Wow. Give me a second here. I feel like I've  
23 been run over by a truck. Actually I feel like I'm  
24 buying a car. I'm hearing all of this back and  
25 forth between the board and the person who wants to

1 build on this wetland. And let's be honest, we're  
2 talk about a wetland.

3 I was taking some notes previously about what  
4 you were talking about with some of the other  
5 buildings in Gainesville. You were talking about  
6 esthetic value. The brick and all that kind of  
7 stuff. You were talking about solar panels, how  
8 important you thought that is. I agree.

9 Sound, you were worried about the sound coming  
10 from the air conditioner unit, how that would  
11 affect people that lived next-door.

12 Bicycles, where people are going to park there  
13 bicycles. Motorcycles, where are they going to put  
14 those? How tall is that tower going to be? How  
15 wide is the sidewalk?

16 This is a wetland. You cannot desegregate --  
17 you cannot destroy a wetland. It's that simple.  
18 These people knew when they bought that land that  
19 that was a wetland. Human beings evolve over time,  
20 we learn over time, we learned 60 years ago you  
21 could die of small pox or something like that.  
22 We're learning. We've learned that you do not  
23 destroy wetlands. I think it's pretty simple.  
24 They make it sound like it's a bad thing because  
25 they have to build fewer lots. I think that's a

1 good thing. I hope they don't build any.

2 And that's all I have to say, Don't destroy  
3 the wetlands.

4 MR. HIGMAN: Thank you very much. Please step  
5 forward, sir.

6 MR. CONRAD: I'm Curt Conrad. We live in Lot  
7 15 which abuts the Phase 2. And I don't think I  
8 can say any better than the previous two speakers,  
9 but I just want to reiterate -- first of all, I've  
10 only been here a year and a half. My wife and I,  
11 we're from New Mexico. We have the opposite  
12 problem, too little water.

13 But hearing tonight, I hear enough hesitancy  
14 about whether or not this is going to negatively  
15 impact this environment, the wetlands. There's  
16 also a tremendous number of tall pines, at least 2  
17 or 300 feet, wild turkey, deer. I hear enough  
18 hesitancy especially about the potential impact on  
19 wetlands that I'm wondering -- and it's been what,  
20 four years now that this has been in progress too  
21 -- I wonder whether it's not better to err on the  
22 side of being conservative here about further  
23 developing this land.

24 So I just sort of reiterate what my neighbors  
25 have said -- who I don't know -- but they've said

1 it very eloquently and I would agree with them.

2 MR. HIGMAN: Thank you very much, sir.

3 There's one more person here, a couple in the back.

4 Anybody else from the public who would like to

5 speak to this issue; if not, we'll close public

6 comment and come back to the board for some final

7 decisions, I hope.

8 MR. SWEGER: Mr. chair, if I may, before

9 deliberation begins, I have to declare a conflict

10 of interest on this item as well. I will abstain

11 from voting on this.

12 MR. HIGMAN: Thank you. Be sure you fill out  
13 your paperwork.

14 Any other people who have any concerns? If  
15 not, may be we could move on with the final --

16 MR. BOYES: Well, I guess I'd like to talk to  
17 staff a little bit more about this fire issue.

18 Just a little bit here. I'm sort of confused by

19 the site plan evaluation sheet that says the plan

20 meets the fire protection requirements of the

21 Gainesville Land Development Code Section 30-160 as

22 submitted. Is that true?

23 MR. CALDERON: It's coming from the fire  
24 department?

25 MR. BOYES: Yeah, true.

1 MR. CALDERON: And he's speaking primarily  
2 other than the access issue.

3 MR. BOYES: Right. Okay. So the access is an  
4 issue here. That's what it seems to be.

5 Just an overall discussion. I think I can  
6 probably work this out, how they've managed to  
7 finally get around the significant amount of  
8 wetlands that they were going to impact. I don't  
9 really have a big environmental issue here.

10 I'm chocking on this. I haven't approved one  
11 contrary to fire department -- fire department, the  
12 public safety. I could conceivably do something  
13 along the lines as long as there was some statement  
14 in the deed to the property, that people buying the  
15 property were aware there was limited access, but  
16 -- or staying with the fire department  
17 recommendation.

18 I think in a motion we'll need to address  
19 that.

20 MR. HIGMAN: Thank you, Mr. Boyes.

21 Anybody else?

22 MR. HAVILAND: Just also, I have concern on  
23 issue number 12 where it's talking about the  
24 Suwannee River Water Management District. Do we  
25 have an updated opinion from Suwannee River Water

1 Management District as to their department and do  
2 we have any current information from them?

3 MR. HIGMAN: Mr. Salafrio, I know you're going  
4 to keep it short. I think you just need to answer  
5 yes or no is there an official permit.

6 MR. SALAFRIO: Yes, there is an official  
7 permit. What will happen at this phase is if you  
8 go ahead and approve it tonight and we go through  
9 the construction phase and, you know, consider more  
10 plans, we'll probably amend that permit. That's  
11 the short answer.

12 MR. HIGMAN: And when you say amend it, what  
13 do you mean by that?

14 MR. SALAFRIO: Amend it to show what the  
15 actual impact is now versus what the impact was  
16 when the permit was issued.

17 MR. HIGMAN: So what you're saying is the  
18 permit you have allows the road through the middle  
19 of the wetland, you will amend the permit to show  
20 that the road is not going through the wetland?

21 MR. SALAFRIO: Correct.

22 MR. HIGMAN: And I believe all of us can rest  
23 assured that if the Water Management District sees  
24 a reduction of the impact the permit will stand and  
25 you need to show them what is actually -- I think

1 they call it as-build once it's done, those things  
2 have to be submitted as well.

3 MR. SALAFRIO: Correct. And the only reason  
4 why I haven't done it is because we want to get  
5 through this first, essentially.

6 MR. CALDERON: Mr. Chair, does he have a  
7 permit for the drawing he has now?

8 MR. HIGMAN: No. But he has --

9 MR. CALDERON: Okay.

10 MR. HIGMAN: But what he has is a permit for  
11 impacts to wetlands for this development that are  
12 larger impacts than what is being proposed now.

13 MR. SALAFRIO: Correct.

14 MR. HIGMAN: And so -- I don't want to speak  
15 out of turn here, but having worked with these  
16 issues as well, I do recognize that Mr. Salafrio's  
17 testimony is an amendment should not be a problem  
18 for water management district who has seen a  
19 reduction in impacts that they've already  
20 permitted. But, again, that is an issue and it is  
21 a concern of this board.

22 MR. SALAFRIO: Correct.

23 MR. HIGMAN: Again, that is your public  
24 testimony and so we'll accept that into the record.

25 Further questions? And, again, I'm sorry for

1 speaking, but I am the professional on that issue  
2 here tonight on this board.

3 MS. COOPER: I just have comments before we --  
4 somebody makes a motion. And there's two issues.

5 One is I'm reading the wording of the comments  
6 from the fire department. And they're saying  
7 Gainesville Fire Rescue strongly recommends  
8 limiting any dead-end streets to a thousand feet.  
9 Not, they kind of would like it; they strongly  
10 recommend it.

11 And then the last line is they say, if a  
12 primary access road of such length has been  
13 obstructed by a fallen tree, house fire, vehicle  
14 accident or hazardous material incident, emergency  
15 service to residents beyond the obstruction would  
16 be severely impacted and delayed.

17 Our board has in the past brought up issues of  
18 public safety and we have to account for our  
19 decision on that. I'm looking at their comment and  
20 those are very strong words.

21 As far as the wetland impacts our land  
22 development code as far as wetlands, first says  
23 avoidance is the main thing. Historically it is  
24 provided to us with this great presentation that we  
25 could see that they have a history of



1 non-avoidance. In fact, the road was going  
2 straight through the wetland.

3 So I think that their issue is financial and  
4 our issue has to be more than financial, we have to  
5 look at the code. I do take into account the  
6 comments by our environmental specialist that you  
7 have to look at the value of a wetland, they're all  
8 not created equal. And I personally feel that  
9 mitigating would have to do a lot more to justify  
10 this.

11 I think that this site, as it's come to us  
12 historically, is an area I've had a problem with  
13 the density that they're trying to achieve and the  
14 site plan lays out this road that that's proposed  
15 they would like to just discount the value of the  
16 sinkholes in the wetland areas. And I think that  
17 they might want to think about the fact that those  
18 lots that are in existence would have a lot more  
19 value if you have these natural areas that are not  
20 destroyed. I think that the value of what they've  
21 got would increase the amount. You might look at  
22 that when you're talking about being able to do  
23 this project and losing revenue.

24 So I, based on those two things, which are  
25 coming from our land development code, which we are

1 to follow, those are two big issue I have that are  
2 not avoiding the mitigation that you proposed is  
3 not offset the destruction of the wetlands. And  
4 the fire hazard I don't think putting it in a deed  
5 let's us off the hook. Our job is to make sure  
6 that it doesn't create public safety and I don't  
7 see that. So I'm not going to be supporting this  
8 petition.

9 MR. HIGMAN: Thank you, Ms. Cooper. Anyone  
10 else? Mr. Shatkin, I was hoping you'd say  
11 something.

12 MR. SHATKIN: I agree with Ms. Cooper. And I  
13 think -- I think some of the problem is the timing  
14 of the project. This project has been going on for  
15 27 years. And I think really the main issue is  
16 there hasn't been any connectivity to adjacent  
17 property that possibly be happening in the future  
18 so this would be an issue.

19 And I think it's really that this is going on  
20 now and this is where we can find a connection and  
21 cause a problem. And I was looking at even if you  
22 adjusted Phase 2, even just the Phase 2 road is  
23 overcapacity.

24 So I think there's a problem with just Phase  
25 2. And I'm also concerned because staff

1 environmental specialist shared with us, of it not  
2 being acceptable and appropriate mitigation for the  
3 impacts.

4 MR. HIGMAN: Thank you, Mr. Shatkin. Is there  
5 any other comments? If not, then we need to do, as  
6 we always do, decide to approve, deny or -- I think  
7 that's the only options we have.

8 Mr. Boyes, I know you were talking about a  
9 motion, may be you could craft something?

10 MR. BOYES: No.

11 MS. COOPER: I'll be happy to craft one.

12 MR. HIGMAN: Okay. Ms. Cooper.

13 MS. COOPER: I've got so many papers all over.

14 MR. CALDERON: Just to remind you that this is  
15 going to the city commission.

16 MR. HIGMAN: Okay. So what you're saying is  
17 this will be going to the city commission. So why  
18 are we here tonight?

19 MR. CALDERON: Advisory.

20 MR. HIGMAN: Why didn't we go home at 1930?

21 MR. CALDERON: In this role now you are  
22 advisory to the city commission.

23 MR. HIGMAN: Okay. We're advisory to the  
24 commission. I don't know if that makes any  
25 difference in our motions or how we feel about

1 this.

2 MR. CALDERON: The city commission does take  
3 seriously what --

4 MR. HIGMAN: They know that we're  
5 professionals and we're making the best judgment  
6 and the best recommendations of anybody in the  
7 community. We know that. Thank you, sir.

8 MS. COOPER: I'd like to move denial of  
9 petition 076SUB-07DB because of the fact that it  
10 does not fulfil the requirement of the land  
11 development code.

12 MR. HIGMAN: Okay. Very short and succinct,  
13 Ms. Cooper. Thank you very much. Who will second?

14 MR. SHATKIN: I'll second that motion.

15 MR. HIGMAN: Okay. Motion to deny. All in  
16 favor say aye?

17 (There were several ayes.)

18 MR. HIGMAN: May be we can get a roll call  
19 vote. Madam Clerk.

20 THE CLERK: Stephen Boyes?

21 MR. BOYES: Nay.

22 THE CLERK: Monica Cooper?

23 MS. COOPER: Aye.

24 THE CLERK: Joshua Shatkin?

25 MR. SHATKIN: Yes.

1 THE CLERK: Jeffrey Haviland?

2 MR. HAVILAND: Yes.

3 THE CLERK: Clay Sweger?

4 MR. SWEGER: Sustained.

5 THE CLERK: And James Higman?

6 MR. HIGMAN: No.

7 THE CLERK: That's three to two, denied.

8 MR. HIGMAN: Thank y'all very much for your  
9 presentation and for all your patients being here.

10 The applicant still has work ahead of them.

11 (Proceedings concluded at 10:20 p.m.)

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## C E R T I F I C A T E

STATE OF FLORIDA )

COUNTY OF ALACHUA)

I, Jacqueline Monson, Court Reporter, do hereby certify that I was authorized to and did report in shorthand the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

Dated this 19th day of February, 2008.

  
Jacqueline Monson  
Court Reporter