



MEMORANDUM

Office of the City Attorney

Phone: 334-5011/Fax 334-2229
Box 46

TO: Mayor and City Commission
DATE: March 24, 2008

FROM: Marion J. Radson, City Attorney
CITY ATTORNEY

SUBJECT: Land Use Petition: Hatchet Creek Planned Use District; Leg. No. 070210; Petition No. 23 LUC-07PB (B)

Recommendation: The City Commission: 1) Receive the request of the Petitioner to amend the Conditions approved by the City Commission in October, 2007; 2) If the city commission is desirous of hearing the proposed amendments, direct the city manager and clerk of the commission to advertise and schedule a Petition Hearing as soon as practicable.

In a letter, the Petitioner is requesting the City Commission to consider amendments to the conditions previously approved by the City Commission after public hearings held on October 22, 23 and 29, 2007. If the City Commission desires to hear the proposed amendments, a Petition hearing must be advertised and scheduled.

Prepared and
Submitted by


Marion J. Radson, City Attorney

LAW OFFICE

CARPENTER & ROSCOW, P.A.

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

March 14, 2008

Marion Radson, Esq.
Attorney, City of Gainesville
Via Fax (334-2229) and Regular U.S. Mail

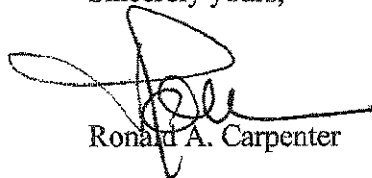
Re: Hatchet Creek

Dear Marion,

This letter is to request that the City Commission, at its regularly scheduled meeting on March 24th, take up the request by East Gainesville Development Partners LLC to consider the Amended Conditions to the Land Use Amendment and that the reconsideration occur at the April 14, 2008 meeting or at a special meeting scheduled for that week.

It is my understanding that the consideration of this request will occur on March 24th during the City Attorney's portion of the Agenda.

Sincerely yours,


Ronald A. Carpenter

RAC/bw

cc: Rob Simensky
Linda Shelley

Radson, Marion J.

From: Rasimensky@aol.com
Sent: Friday, March 07, 2008 4:56 PM
To: Hanrahan, Pegeen
Cc: Braddy, Edward B.; Bryant, Richard J.; Donovan, John F. - Commissioner; Henry, Scherwin L.; Lowe, Craig; Mastrodicasa, Jeanna; Blackburn, Russ D.; Bredfeldt, Erik A.; Hilliard, Ralph W.; Mimms, Dean L.; Scott, Teresa A.; pjohanson@flygainesville.com; allan.penksa@flygainesville.com
Subject: Proposed Condition Modifications to Hatchet Creek Land Use Amendment
Attachments: PROPOSED CONDITION MODIFICATIONS 3_7_08.doc

Dear Madam Mayor:

Thank you very much for spending so much time with me a couple of weeks ago. I appreciate your efforts to better understand the issues surrounding the Hatchet Creek land use amendment application and your willingness to help resolve certain issues and conditions that will allow this important project to move forward.

I understand that you intend to ask the City Manager to place this matter on the City Commission's agenda for the evening of Monday March 24, 2008. If that is indeed the case, I have attached for your review a list of specific language modifications to the City Attorney Office's most recent draft of the conditions, as was distributed by that office last October. This attached list is the result of a process outlined by the City Manager last December.

Since the end of October, I have had numerous conversations with the Chairman of the Airport Authority Board. Additionally, my advisory team and I have had several discussions and meetings with City Staff and, when requested, have also provided Staff with supplemental information to the best of our ability.

Prior to the City Commission meeting on March 24th, I will submit a presentation I would like to present to the Commission that evening outlining the proposed condition modifications as well as indicating an alternative that can be explored after the land use amendment is transmitted to the State.

As I would expect people who have taken an interest in this land use amendment in the past to be equally interested in the results of the meeting on March 24th, I believe it would be easier for everyone who would like to attend the meeting to know about what time the matter will be heard. I also expect to have an executive from Fishkind & Associates in Orlando attend the meeting to address qualitative/process questions regarding CDD formation, operation, etc. Additionally, prior to the City Commission meeting on March 24th, I would appreciate a response from Staff indicating which of the attached proposed condition modifications they support and which modifications they will completely defer to the Commission for resolution.

Thank you again for your time and consideration. I remain committed to working constructively

3/11/2008

with all parties. I look forward to continuing this discussion on March 24th.

Kind regards,

Robert Simensky

East Gainesville Development Partners LLC

P.O. Box 5156

Gainesville, FL 32627-5156

Tel: (352) 222-7714

DISCLAIMER: This e-mail message and any attachments are intended solely for the use of the individual(s) or entity to which it is addressed and may contain information that is confidential or legally privileged. If you are not the intended recipient, you are hereby notified that any dissemination, copying or other use of this message or its attachments is strictly prohibited. If you have received this message in error, please notify the sender immediately and permanently delete this message and any attachments. Furthermore, internet communications are not secure and therefore East Gainesville Development Partners LLC does not accept legal responsibility for the contents of this message. Thank you.

It's Tax Time! Get tips, forms and advice on [AOL Money & Finance](#).

3/11/2008

**PROPOSED CONDITION MODIFICATIONS
TO
STAFF CONDITIONS AS MODIFIED BY THE CITY ATTORNEY**

In addition to the modifications listed below, the Applicant will have comments on the draft of the ordinance when it is prepared and would appreciate the opportunity to work directly with the City Attorney in advance of the publication of the ordinance, in order to resolve and clarify drafting issues/ambiguities prior to its release. Thank you.

Condition A-1

The planned use district is a maximum of 1,500+199 residential units, 400500 ALF (Assisted Living Facility) beds, and a maximum of 200,000 square feet of non-residential uses (to include a maximum of 100,000 square feet of retail space and a maximum of 100,000 square feet of office space). The actual amount of residential units and non-residential development area will be specified in the PD zoning ordinance as limited by the city, county and state development restrictions and constraints, including but not limited to, wetlands and surface water regulations, wellfield protection, floodplain requirements, concurrency and airport hazard zoning regulations.

Condition A-2

No residential units including ALF beds shall be allowed within the 65+ DNL noise contour east of Ironwood Golf Course's easternmost boundary line (S 29°13'27" W 907.08' (L) S 29°14'38" W 907.02 (M); S 21°26'37" W 730.15' (L) N 21°27'18" E 730.34' (M); S 07°59'20" W 777.35' (L) N 07°59'52" E 777.45' (M); L63 M62; L61 M61; S 23°36'50" W 740.48' (L) S 23°37'31" W 740.44' (M); S 02°33'55" W 745.29' (L) S 02°34'43" W 745.20' (M))Airport Noise Zone.

Condition A-3

For any non-residential development within the 65+ DNL noise contour east of Ironwood Golf Course's easternmost boundary line (S 29°13'27" W 907.08' (L) S 29°14'38" W 907.02 (M); S 21°26'37" W 730.15' (L) N 21°27'18" E 730.34' (M); S 07°59'20" W 777.35' (L) N 07°59'52" E 777.45' (M); L63 M62; L61 M61; S 23°36'50" W 740.48' (L) S 23°37'31" W 740.44' (M); S 02°33'55" W 745.29' (L) S 02°34'43" W 745.20' (M))Airport Noise Zone, the only allowable uses shall be those permitted uses identified in the PD zoning ordinance and consistent with Appendix F, Airport Hazard Zoning Regulations 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. of Part 150) with the Airport Noise Subzone within which the use is located.

Condition A-4

The area, uses, intensity and density of the Planned Use District shall be restricted as follows:

1) Zone: Within the 65+ DNL noise contour east of Ironwood Golf Course's easternmost boundary line (S 29°13'27" W 907.08' (L) S 29°14'38" W 907.02 (M); S 21°26'37" W

730.15' (L) N 21°27'18" E 730.34' (M); S 07°59'20" W 777.35' (L) N 07°59'52" E 777.45' (M); L63 M62; L61 M61; S 23°36'50" W 740.48' (L) S 23°37'31" W 740.44' (M); S 02°33'55" W 745.29' (L) S 02°34'43" W 745.20' (M)) ~~Airport Noise Zone~~

Uses: No residential development including ALF beds is allowed. Accessory uses (e.g., recreational facilities) to residential development are permitted. Non-residential development is allowed in accordance with the permitted uses identified in the PD zoning ordinance and consistent with Appendix F – Airport Hazard Zoning Regulations, Chapter 30, Gainesville Codes of Ordinances.

Density: No residential development, including ALF beds.

Intensity: Maximum of 200,000 square feet of non-residential uses (to include a maximum of 100,000 square feet of retail space and a maximum of 100,000 square feet of office space) to be allowed within entire planned use district.

2) Zone: Outside of the 65+ DNL noise contour east of Ironwood Golf Course's easternmost boundary line (S 29°13'27" W 907.08' (L) S 29°14'38" W 907.02 (M); S 21°26'37" W 730.15' (L) N 21°27'18" E 730.34' (M); S 07°59'20" W 777.35' (L) N 07°59'52" E 777.45' (M); L63 M62; L61 M61; S 23°36'50" W 740.48' (L) S 23°37'31" W 740.44' (M); S 02°33'55" W 745.29' (L) S 02°34'43" W 745.20' (M)) and west of this boundary line ~~Airport Noise Zone~~

Uses: A) Residential
Density: Maximum of 1,500~~1,199~~ dwelling units, plus 400~~500~~ ALF beds

B) Non-residential
Intensity: Maximum square footage allowed is the total square footage not used in the 65+ DNL noise contour east of Ironwood Golf Course's easternmost boundary line (S 29°13'27" W 907.08' (L) S 29°14'38" W 907.02 (M); S 21°26'37" W 730.15' (L) N 21°27'18" E 730.34' (M); S 07°59'20" W 777.35' (L) N 07°59'52" E 777.45' (M); L63 M62; L61 M61; S 23°36'50" W 740.48' (L) S 23°37'31" W 740.44' (M); S 02°33'55" W 745.29' (L) S 02°34'43" W 745.20' (M)) ~~"Within Airport Noise Zone"~~

Totals:

Density: Maximum of 1,500~~1,199~~ dwelling units, plus 400~~500~~ ALF beds.

Intensity: Maximum of 200,000 square feet of non-residential uses (to include a maximum of 100,000 square feet of retail space and a maximum of 100,000 square feet of office space) to be allowed within the entire planned use district.

Condition E

All direct impacts to jurisdictional wetlands will be mitigated in accordance with the methodology outlined in Chapter 62-345 Uniform Mitigation Assessment Method (UMAM), F.A.C. In addition, the mitigation plan will ensure that on-site creation of wetlands will result in no net loss of wetland acreage on-site (within the boundaries of the following tax parcels: 08160-001-000, 08160-004-000, 08160-001-001, 08160-004-001, 08160-002-000, 08197-006-000, 08169-000-000, 08171-000-000). 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 water management district.~~

Condition H

The owner/developer shall submit an environmental features report (in accordance with the requirements of the ~~S~~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 owner/developer 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.~~

Condition K

Buffer and setback requirements for the wetlands and creeks in the planned use district shall be in accordance with the land development code, including the significant ecological overlay district requirements based upon review of the required environmental features report that shall be submitted with the application for planned development district zoning. The buffer and setback requirements shall be specified in the PD zoning ordinance. Regulated creeks on the site shall be limited to the areas depicted on the attached map.

Condition L

Buffer requirements pertaining to adjacent uses (including the municipal golf course) will be ~~proposed~~ provided by the owner/developer in the application for planned development district zoning and shall be included in the PD zoning ordinance. These buffers shall be designed to ~~minimize the impact on and~~ adequately buffer the adjacent uses.

Condition Q

~~A maximum of three 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. Drive-through facilities shall be determined in the PD zoning ordinance.~~

Condition S

~~A maximum of two access points shall be allowed along NE 53rd Avenue unless additional access points are approved by Alachua County and the City of Gainesville, in accordance with the Alachua County Access Management regulations, and the locations shall be included in the planned development district zoning. All access points are subject to Alachua County and City of Gainesville approval at the planned development zoning stage and shall be specified in the PD zoning ordinance. To minimize traffic impacts from the Hatchet Creek planned use district on NE 53rd Avenue, the owner/developer shall interconnect the two access points on NE 53rd Avenue with the internal road system in the Hatchet Creek development. Access points on NE 53rd Avenue and connectivity to areas south of Little Hatchet Creek shall be determined in the PD zoning ordinance.~~

Condition X

Prior to the application for PD zoning related to the Hatchet Creek planned use district, 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 major traffic study requirements. The specifications for the signal warrant analyses shall be part of the traffic methodology letter that will be signed with the City of Gainesville. ~~The developer shall be responsible for the costs of any new traffic signals that are warranted as a result of the development's site related impacts, and the costs shall not be counted toward any required proportionate fair share contribution for transportation concurrency.~~

Condition Y

~~Prior to the second reading of the PD zoning 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. The owner/developer shall be responsible for the costs associated with tying a new traffic signal at the proposed entrance to the community on NE 39th Avenue into the Traffic Management System to ensure that the new signal communicates with the system, if and when such new traffic signal is installed.~~

Condition Z-5

At least 80% of the ~~All~~ residential development shall be housing designated for persons where at least one member of the household ~~is~~ ~~who are~~ 55 years or older in accordance with the Federal Fair Housing Act (Title 42, Chapter 45, Subchapter 1, U.S.C.), the Florida Fair Housing Act (Chapter 760, Part II, F.S.) and all related federal and state regulations. ~~This restriction on the housing for persons of 55 years or older shall be~~ included on any plat or subdivision of land and in the restrictive covenants. The covenants shall be made expressly enforceable by the City of Gainesville, and shall not be amended without City approval as to this restriction.