


MEMORANDUM

TO: Honorable Mayor Strickland and City Council Members
FROM: J.H.Kerr III, City Planner 
DATE: February 17, 2009
SUBJECT: Approval of Site Plan for GEL Corporation Site Plan

PURPOSE

To approve the master development plan and site plan for the GEL Corporation recycling facility to be located in the northeast quadrant of Rhode Island Avenue and Leavitt Avenue, in Orange City, Florida.

BACKGROUND

The subject property consists of 33.8 acres, and is currently developed as a closed landfill and a recycling facility. The property is located within the City's jurisdiction. The applicant proposes to utilize a 15.97 acre portion of the property as a recycling facility. The proposed site plan will result in the construction of one new office building and a recycling facility.

The application was submitted to the Planning Commission for a public hearing, which was held on December 3, 2008, in accordance with Section 8.7.22 of the City's land development code. Following a review and consideration of the application, the Commission voted unanimously to recommend that the City Council approve the site plan subject to the irrigation control box being located on the inside of the wall.

Attached is a copy of Resolution 510-08. Also attached is the staff report sent to the Planning Commission, and the minutes from the December 3, 2008 Commission meeting.

RECOMMENDATION

Staff and the Planning Commission recommend that City Council adopt Resolution No. 510-08, thereby approving the master development plan and site plan for the GEL Corporation recycling facility.

RESOLUTION NO. 510-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA, ACKNOWLEDGING AND APPROVING THE MASTER DEVELOPMENT PLAN, DEVELOPMENT AGREEMENT AND SITE PLAN FOR THE GEL RECYCLING FACILITY (I-PUD) INDUSTRIAL PLANNED UNIT DEVELOPMENT, TO BE CONSTRUCTED ON A 15.97 ACRE PARCEL, LOCATED IN THE NORTHEAST QUADRANT OF EAST RHODE ISLAND AVENUE AND SOUTH LEAVITT AVENUE, ORANGE CITY, FLORIDA; REPEALING ALL RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, GEL Corporation, has applied for approval of a Master Development Plan, development agreement and site plan for the GEL Recycling facility (I-PUD) Industrial Planned Unit Development consisting of a new office building and recycling activities to be developed on a 15.97 acre parcel located in the northeast quadrant of East Rhode Island Avenue and South Leavitt Avenue, said property is more particularly described in the Exhibit "A" Legal Description, and

WHEREAS, the Planning Commission of the City of Orange City, held a regular meeting on December 3, 2008, and recommended approval of the Master Development Plan, development agreement and site plan for the GEL Recycling facility (I-PUD) Industrial Planned Unit Development to the City Council, and

WHEREAS, it is necessary for the City Council of the City of Orange City, Florida, to render Master Development Plan, development agreement and site plan approval of the GEL Recycling facility (I-PUD) Industrial Planned Unit Development, as per Section 8.7.22 of the Land Development Code of the City of Orange City, Florida.

NOW, THEREFORE, BE IT RESOLVED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA:

SECTION 1. That the Master Development Plan, development agreement and site plan for the GEL Recycling facility (I-PUD) Industrial Planned Unit Development consisting of a new office building and recycling activities to be developed on an 15.97 acre parcel located in the northeast quadrant of East Rhode Island Avenue and South Leavitt Avenue, said Master Development Plan and site plan and development agreement attached hereto as Exhibit B and Exhibit C and Exhibit D respectively, is by reference incorporated herein and approved subject to the conditions and departures listed in Exhibit E.

SECTION 2. That all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed.

SECTION 3. That this resolution shall take effect immediately upon its adoption by the City Council of the City of Orange City, Florida.

ROLL CALL VOTE AS FOLLOWS (Resolution No. 510-08):

Jim Mahoney	_____	Donald C. Sherrill	_____
Tom Laputka	_____	Tom Abraham	_____
Donald Sandford	_____	Jeff H. Allebach, Vice Mayor	_____
Harley Strickland, Mayor	_____		

ADOPTED THIS _____ DAY OF _____, 2009.

ATTEST TO:

Deborah J. Renner, City Clerk

Authenticated this _____ day of _____, 2009.

Harley Strickland, Mayor

This Resolution approved
as to form and legal sufficiency:

William Reischmann, City Attorney

Exhibit A

Resolution No. 510-08

Legal Description

GEL Corporation

Legal Description - A portion of Vineland Park Subdivision

Lots 1 to 19, inclusive, and Lots 41 to 50, inclusive, Block 1; Lots 1 to 18, inclusive, and Lots 39 to 48, inclusive, Block 2; Lots 1 to 48, inclusive, Block 3; Lots 1 to 48, inclusive, Block 4; Lots 1 to 50, inclusive, Block 5; Lots 1 to 50, inclusive, Block 6; Lots 1 to 48, inclusive, Block 7; Lots 1 to 48, inclusive, Block 8; Lots 1 to 48, inclusive, Block 9; Lots 1 to 50, inclusive, Block 10; and Bell Avenue, Lying East of the Easterly Right of Way of Leavitt Avenue and West of the Westerly Right of Way of Trafford Avenue; and Willard Street lying South of the Northerly boundary of said Lot 41, Block 1 and Lot 18, Block 2 and North of the Northerly Right of Way of Rhode Island Avenue; and Green Street lying South of the Northerly boundary of said Lot 39, Block 2 and North of the Northerly Right of Way of Rhode Island Avenue; and the E ½ of Green Street lying North of the Easterly extension of the Northerly boundary of said Lot 39, Block 2 and South of the Southerly Right of Way of Georgia Avenue and Booth Street lying South of the Southerly Right of Way of Georgia Avenue and North of the Northerly Right of Way of Rhode Island Avenue; and Henry Street lying South of the Southerly Right of Way of Georgia Avenue and North of the Northerly Right of Way of Rhode Island Avenue, Vineland Park, a subdivision according to map in Map Book 7, Page 77, Public Records of Volusia County, Florida, and being more particularly described as follows: Commencing at the Southwest corner of the SE ¼ of Section 11, Township 18 South, Range 30 East, Volusia County, Florida, run thence S 89°51'34" E along the South line of said SE ¼ a distance of 30.00 feet; run thence N 00°03'53" W along a line 30.00 feet East of at right angle to and parallel with the West line of said SE ¼ a distance of 30.00 feet to the point of intersection of the Northerly Right of Way of Rhode Island Avenue and the Easterly Right of Way line of Leavitt Avenue, as now established and the Point of Beginning. Continue thence N 00°03'53" W along said Easterly Right of Way a distance of 1017.13 feet; run thence S 89°48'50" E a distance of 512.65 feet; run thence N 00°00'36" E a distance of 251.80 feet to a point on the Southerly Right of Way of Georgia Avenue; run thence S 89°48'00" E along said Right of Way a distance of 755.48 feet to a point on the Westerly Right of Way of Trafford Avenue; run thence S 00°03'45" E along said Right of Way a distance of 1267.74 feet to a point on aforesaid Northerly Right of Way of Rhode Island Avenue; run thence N 89°51'34" W along said Right of Way lying 30.00 feet North of at right angle to and parallel with aforesaid South line of the SE ¼ a distance of 1268.40 feet to the Point of Beginning. Being subject to any Easements and Rights of Way of Record.

DEVELOPMENT AGREEMENT
For
GEL RECYCLING I-PUD

THIS DEVELOPMENT AGREEMENT AND ORDER, also referred to herein as "Development Agreement" entered into and made as of the _____ day of _____, 2009, by and between the **CITY OF ORANGE CITY, FLORIDA**, (hereinafter referred to as the "City"), and GEL Corporation (hereinafter referred to as the "Owner/Developer").

WITNESSETH

WHEREAS, Owner/Developer owns real property lying within the municipal boundaries of the City of Orange City; consisting of a 33.81 acre parcel of land which is more specifically located at the northeast corner of South Leavitt Avenue and East Rhode Island Avenue. This parcel of land is more particularly described in Exhibit "A" attached hereto (the Property); and

WHEREAS, the real property includes the GEL Corporation Construction & Demolition (C&D) Landfill and the GEL C&D Recycling Facility. The C&D Landfill encompasses approximately 17.84 acres lying in the eastern portion of the property. The C&D Landfill is a closed landfill and does not conform to City land development codes. The C&D Recycling Facility encompasses approximately 15.97 acres lying in the western portion of the property; and

WHEREAS, the Owner/Developer desires to develop a 15.97 acre portion of the real property identified as the C&D Recycling Facility for the processing of household recyclables and C&D recyclables, in accordance with the GEL Recycling I-PUD master development plan, Exhibit "C", attached to this Development Agreement; and

WHEREAS, the C&D Landfill portion of the property shall not be impacted by development within the C&D Recycling Facility; and

WHEREAS, the Owner/Developer desires to facilitate the orderly development of the Property, in compliance with the laws and regulations of the City, and of other governmental authorities, and the Owner/Developer desires to ensure that its development is compatible with other properties in the area and planned traffic patterns; and

WHEREAS, this Agreement is entered into in accordance with the provisions in the City's Land Development Code, Ordinance Number 157, as amended, establishing guidelines and standards for an industrial recycling development; and

WHEREAS, the GEL Recycling I-PUD Application, herein attached as Exhibit "B", was duly and properly filed herein on the 9th day of June, 2008, as required by City code, and all fees and costs which are by law or regulation or ordinance required, are to be borne and paid by the Owner/Developer; and

WHEREAS, the Owner/Developer has met with the Technical Review Committee (TRC) on the 9th day of June, 2008, as required by Section 8.7.22.E.2 of the City's Land Development Code Ordinance Number 157, and

WHEREAS, the Orange City Planning Commission held a public hearing on the 3rd day of December, 2008, and has reviewed and recommended approval of the GEL Recycling I-PUD

Development Application and the master development plan herein attached as Exhibit "B" and "C" respectively; and

WHEREAS, the City Council of Orange City held a public hearing on the 24th day of February, 2009, and has reviewed and approved the GEL Recycling I-PUD master development plan herein attached as Exhibit "C". Said approval was performed by the adoption of Ordinance Number 365.

WHEREAS, the City Council of Orange City also held a regular meeting on the 24th day of February, 2009, and has reviewed and approved the GEL Recycling site plan herein attached as Exhibit "D". Said approval was performed by the adoption of Resolution Number 510-08.

NOW THEREFORE, in consideration of the obligations and covenants herein contained, the City and the Owner/Developer agree that ~~City Council shall consider Owner Developers application for rezoning of~~ the Property ~~shall be rezoned~~ to the classification of I-PUD, and ~~which rezoning~~ shall be subjected to the terms and conditions of this Development Agreement and Order as follows:

SECTION 1. RECITALS

The above recitals are true and correct and form a material part of the Agreement.

SECTION 2. OWNERSHIP & LEGAL DESCRIPTION OF PROPERTY; AGREEMENT TO RUN WITH THE LAND

The Owner/Developer represents that it is the fee owner of the "Property". The legal description of the "Property", is set forth in Exhibit "A" Legal Description and Exhibit "C" master development plan attached hereto and by this reference made a part hereof. This agreement shall run with the Property and wherever the words "Owner / Developer" appear, it shall be constituted to also mean the successors in title to the Owner/Developer.

SECTION 3. TITLE OPINION/CERTIFICATION.

The Owner/Developer has provided to the City, in advance of the City's execution of this Agreement, a title opinion of an attorney licensed in Florida, or a certification by an abstractor or title company authorized to do business in Florida, showing marketable title to the Property to be in the name of the Owner/Developer and showing all liens, mortgages, easements, and other encumbrances not satisfied or released of record.

SECTION 4. SUBORDINATION/JOINDER

Unless otherwise agreed to by the City, all liens, mortgages, and other encumbrances not satisfied or released of record, must be subordinated to the terms of this Agreement or the lien holder join in this Agreement. It shall be the responsibility of the Owner/Developer to promptly obtain the said subordination or joinder, in form and substance acceptable to the City Attorney, prior to the City's execution of this Agreement.

SECTION 5. AGREEMENTS

The Owner/Developer agrees to proceed with the proposed development according to all regulations including the provisions of the City's land development codes and such other conditions as may be attached to this development agreement. The Owner/Developer agrees to provide agreements, contracts, deed restrictions and sureties acceptable to the City Council for completion of the development according to the approved plans, and maintenance of such areas, functions and facilities as are not to be provided, operated, or maintained at public expense. The Owner/Developer agrees to bind all successors in title to any commitments made in this Agreement.

SECTION 6. OBLIGATIONS

The Owner/Developer shall develop the project in accordance with all applicable building codes, and in conformance with the Orange City Land Development Code Ordinance Number 157, as amended, FDEP Permit Number SO64-0126923-004, St. Johns River Water Management District Permit Number 42-127-91108-1, and Chapters 62.701 & 40C-42 of the Florida Administrative Code (F.A.C.). To the extent the Owner/Developer violates this Covenant, then the City shall give the Owner/Developer thirty (30) days written notice to commence and ninety (90) days to complete said required obligation. Notwithstanding the foregoing if the Owner/Developer is actively and continuously seeking to complete its obligations, the City will grant a reasonable request for additional time. If the Owner/Developer fails to complete the obligations within the ninety (90) day period, as may be extended, then the City, without further notice to the Owner/Developer or its successors in interest, may, without prejudice to any other rights or remedies it may have under Section 13 of this Agreement or otherwise, perform any and all of the obligations described in this Agreement. Further, the City is hereby authorized to assess the actual and verified cost of completing the obligations required under this Agreement against the Property. The lien of such assessments shall be superior to all others, and all existing lien holders and mortgagees, by their execution of the subordination or joinder documents, agree to subordinate their liens or mortgages to the City's said liens or assessments. Notice to the Owner/Developer and its successors in interest shall be deemed to have been given upon the mailing of notice to the below-mentioned address. While this section may provide certain rights to the City, there shall be no obligation on the part of the City to maintain compliance with all applicable Owner/Developer permits.

If the Owner/Developer fails to complete the obligations within the ninety (90) day period, as may be extended, then the City, without further notice to the Owner/Developer or its successors in interest, may, without prejudice to any other rights or remedies it may have, perform any and all of the obligations described in this Agreement.

SECTION 7. DESCRIPTION OF DEVELOPMENT

A. This property will be developed as set forth in the Exhibit "C" master development plan, and Exhibit "D" site plan attached hereto and by this reference made a part hereof.

Exhibit "C" PUD Master Development Plan

- Sheet PD-1 = Title Sheet
- Sheet PD-2 = Site Layout
- Sheet PD-3 = North Layout
- Sheet PD-4 = South Layout
- Sheet PD-5 = Existing Topo
- Sheet SU = Survey

6 sheets

Exhibit "D" Site Plan

- Sheet C-1 = Title Page
- Sheet C-2 = Site Layout - North
- Sheet C-3 = Site Layout - South
- Sheet C-4 = Overall Drainage
- Sheet C-5 = Paving & Grading
- Sheet C-6 = Details & Notes
- Sheet C-7 = Details & Notes
- Sheet C-8 = Lift Station
- Sheet C-9 = Site Conditions
- Sheet P-1 = Photometrics
- Sheets L-1 & I-2 = Landscape Plan
- Sheets I-1 & I-2 = Irrigation Plan
- Sheets A2.2 & A4.1 = Architectural Plans
- Sheet SU = Survey

17 Sheets

B. The Development Plan consists of this "Development Agreement" and all of the Exhibits mentioned herein; (1) Exhibit "A" Legal Description, and (2) Exhibit "B" Planned Unit Development

Application, (3) Exhibit "C" PUD Master Development Plan, (4) Exhibit "D" site plan, (5) Exhibit "E" FDEP Permit Number SO64-0126923-004, and (6) Exhibit "F" St. Johns River Water Management District Permit Number 42-127-91108-1, and any amendments thereto, which shall be filed and retained for public inspection in the office of the City's Development Services Department.

C. Allowable Uses

The allowable uses are the receiving and processing of household recyclables and C&D debris (waste materials) in accordance with the GEL Recycling I-PUD Master Development Plan and Florida Department of Environmental Protection (FDEP) Permit Number SO64-0126923-004 and continued long term care activities for the C&D Disposal area issued under Section(s) 403.061(14) and 403.707, of the Florida Statutes.

Household recyclables include old newspaper, old corrugated containers, high grade/office paper, mixed paper, plastic bottles, all other plastic, aluminum cans, other non-ferrous, steel cans, other ferrous (other than used oil filters), glass, rubber (other than waste tires) and textiles.

C&D debris are materials generally considered to be not water soluble and non-hazardous in nature, including, but not limited to steel, glass, brick, concrete, asphalt material, pipe, gypsum wallboard, plastics and lumber from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure. The term includes rocks, soils, tree remains, trees and other vegetative matter which normally results from land clearing or land development operations for a construction project. More specifically, C&D operations are limited to; (1) weighing C&D debris brought to the site; (2) crushing of concrete products and chipping/mulching of wood; (3) separating and/or processing the waste materials; (4) selling/transferring the recovered/recycled materials; and (5) transporting rejected waste to an appropriate, permitted waste disposal facility.

The allowable uses shall not include Class I waste, hazardous waste, PCBs, household waste, industrial solid waste and byproducts, biomedical waste, automotive or automotive parts, automotive batteries, used oil and tires.

D. 8.7.22 C Open Space

The Master Development Plan reflects sufficient common open space to satisfy the requirements of the City's Land Development Code as per the schedule and calculations below. Provision for maintenance of the open space has been provided in this Agreement. Common open space areas will be owned and maintained by the Owner/Developer as long as it owns fee title to the Property, and thereafter by its successors in title.

Open Space Calculation

	Square feet	Acres	Percentage
Landscaping (Includes yard setbacks)	52,300	1.201	3.8
Landscaping (10% of driveway and parking)	6,925	0.159	0.5
Open Drainage Retention	78,427	1.800	5.3
Other Pervious Area *	1,004,193	23.053	68.1
Total Pervious Area	1,141,845	26.213	77.5

E. 8.7.22 D Underground Utilities

Within the GEL Recycling I-PUD, all new utility distribution lines, including but not limited to telephone, television cable and electrical systems, shall be installed underground.

F. 8.7.22 E.6.c Land Use Analysis
Property Analysis Land Use Chart

Property Analysis Chart

	Square feet	Acres	Percentage
Buildings (list each, if more than one)	1,534	0.036	0.1
	15,600	0.358	1.0
	7,575	0.174	0.5
Parking Space Area	5,580	0.128	0.4
Driveway Area	295,614	6.786	20.1
Sidewalk Area	2,572	0.059	0.2
Other Impervious Area	2,455	0.056	0.2
Total Impervious Area	330,930	7.597	22.5
Landscaping (Includes yard setbacks)	52,300	1.201	3.8
Landscaping (10% of driveway and parking)	6,925	0.159	0.5
Open Drainage Retention	78,427	1.800	5.3
Other Pervious Area *	1,004,193	23.053	68.1
Total Pervious Area	1,141,845	26.213	77.5
Total Property Size	1,472,775	33.810	100.0

- In the event that in the future the C&D landfill is/or must be capped, then the "pervious area" noted in the two charts above shall be deemed revised to reflect the reduced pervious or open space.

G. 8.7.22.6.e Building Height

The building height for GEL Recycling I-PUD is a maximum 35.0 feet.

H. 8.7.22.6.f Spacing and Floor Areas

Per applicable City code, the spacing between buildings shall be as reflected in the Master Development Plan.

I. 8.7.22.6.g Lot Configurations

Lot configurations, building setbacks, buffers, lot coverage and building heights are as set forth in the Master Development Plan, herein attached as Exhibit "C" to this Development Agreement. The lot size meets the minimum size required by the City's Land Development Code.

J. 8.7.22.6.h Infrastructure Disposition

Potable water will be supplied to the development through a potable water distribution system interconnected to and served by the City of Orange City. The on-site potable water system will be owned and maintained by the Owner/Developer as long as it owns fee title to the Property, and thereafter by its successors in title.

Wastewater sewer service will be provided to the development through a central sewer collection system interconnected to and treated by the City of Orange City. The on-site wastewater system will be owned and maintained by the Owner/Developer as long as it owns fee title to the Property, and thereafter by its successors in title, including the on-site lift station, which is a private lift station owned by Owner/Developer.

Stormwater design and management of this project will be in conformance with Chapter 12 of the Orange City Land Development Code Ordinance Number 157, FDEP Permit Number SO64-0126923-004, St. Johns River Water Management District Permit Number 42-127-91108-1, and Chapters 62.701 & 40C-42 of the Florida Administrative Code (F.A.C.). The stormwater conveyance and detention system will be owned and maintained by the Owner/Developer as long as it owns fee title to the Property, and thereafter by its successors in title. City staff and its representatives shall be granted permission to enter, inspect and observe the stormwater system to insure conformity with the plans and specifications approved by the referenced permits.

Pursuant to Section 5.1.1 of the Orange City Land Development Code, the Developer shall provide the City with a guarantee of performance for infrastructure improvements naming the City as insured in connection with infrastructure improvements.

K. Completion Schedule

The Owner/Developer agrees to commence construction on the property within one (1) year after the date of the approval of the Master Development Plan and site plan. If substantial construction has not begun within the one-year period, or substantial progress has not been made during any six-month period following commencement of construction, the Master Development Plan and site plan shall be re-evaluated by the Planning Department. A one-time extension of one (1) year may be granted by the City Council upon written request of the Owner/Developer as per ordinance.

On site infrastructure improvements necessary to sustain the ultimate development of the Property will be accomplished in a single phase and in conformance with the Master Development Plan.

L. 8.6.16.F Off-Street Parking

Off-street parking meets the requirements of Section 8.7.7 of the City's Land Development Code.

M. 8.6.16.G Transportation Impact Analysis

Traffic access to this site will be in accordance with the submitted Exhibit "C" Master Development Plan, with access limited to a primary ingress/egress access to South Leavitt Avenue.

The transportation impact analysis report has been prepared by CSI Engineers according to the Institute of Transportation Engineers Trip Generation Manual, latest edition and indicates 228 vehicle trips per day, in compliance with the City's Land Development Code.

Access into and traffic flow within the development, with particular reference to the separation of vehicular traffic from pedestrian or other types of traffic are referenced or depicted on the Exhibit "C" Master Development Plan.

N. Signage

Signage shall be permitted as shown on the attached Exhibit "D" Site Plan and in accordance with the City's sign regulations and ordinances in effect at time of request for development approval.

O. Public Transportation facilities

When and if they are warranted, the Owner/Developer agrees to assist the City of Orange City by providing a location and allowing the installation of a bus stop and/or bus shelter on the Property along South Leavitt Avenue and East Rhode Island Avenue. The Owner/Developer agrees to provide for the maintenance of said bus shelter.

P. Street Light Assessment

The Owner/Developer agrees to be assessed their proportionate share of costs for a streetlight assessment program to install streetlights along that portion of South Leavitt Avenue and East Rhode Island Avenue abutting the 33.81-acre Subject Property.

Q. Recycling Stipulations

~~The total amount of unprocessed waste permitted at the Property at any given time is 2,400 tons.~~

Recycling operations at the Property are regulated by FDEP Permit Number SO64-126923-004 and Chapters 62.701 & 62.709, F.A.C. All conditions and rules stipulated in those documents are hereinto incorporated into this Agreement by reference. All notification requirements specified in FDEP Permit Number SO64-126923-004 shall also apply to City notifications in such that the Owner/Developer shall be required to notify FDEP and the City whenever such a qualifying event occurs at the Property. Violations and/or non-compliance citations issued by FDEP shall be considered by the City to also be a record of violation of the terms of this Agreement and subject to enforcement under Section 13 hereof.

The Owner/Developer agrees to abide by the following;

1. Recovered Screen Material (RSM)

All RSM generated at the Property shall be subject to the regulations and conditions established in FDEP Permit Number SO64-126923-004 & Chapters 62.701 and 62.709, F.A.C. Storage of RSM within designated, predefined, temporary storage areas at the Property shall not exceed 30 days. The limits of the RSM storage area footprint have been delineated with permanent monuments (markers). The locations of the monuments shall remain visible and easily identifiable to operational personnel and City inspectors and/or City representatives. The monuments may not be moved without FDEP and City approval.

2. Mulch

Pursuant to FDEP Permit Number SO64-126923-004, the Owner/Developer is permitted to process recovered wood into mulch via chipping/mulching equipment designed for this use. Storage of processed mulch within designated, predefined, temporary storage areas at the Property shall not exceed 18 months. The limits of the Processed Mulch Storage Area footprint have been delineated with permanent monuments (markers). The locations of the monuments shall remain visible and easily identifiable to operational personnel and City inspectors and/or City representatives. The monuments may not be moved without FDEP and City approval.

3. Yard Trash

All yard trash received at the Property shall be subject to the regulations and conditions

established in FDEP Permit Number SO64-126923-004 and Chapter 62.709, F.A.C. Yard trash accepted by the Owner/Developer at the Property must be processed or removed within 6 months of receipt.

4. Recyclables

All recovered materials (i.e., recyclables) received at the Property shall be subject to the regulations and conditions established in FDEP Permit Number SO64-126923-004 and Chapter 62.709, F.A.C. Recyclable materials at the Property include metal, glass, plastic, paper, textiles and rubber. Recyclable materials must be sold, used or reused within one year of receipt. Documentation of incoming and outgoing recyclable material loads must be maintained and shall be provided to City inspectors and/or City representatives upon request.

5. Fire Prevention/Safety

The facility shall have an emergency plan for the monitoring, controlling, and extinguishing of spot fires, and possess a reliable means for prompt communication with the City's fire department.

a. Slopes of mounded material shall not be steeper than 3:1 (horizontal to vertical).

b. An emergency all-weather access road, at least 20-feet wide, must be maintained around the perimeter of the Property. Interior lanes, at least 15-feet wide, must also be maintained. All roadways within the Property boundaries must be designed such that no part of the area that is occupied by processed or unprocessed material shall be no more than 50 feet from access by motorized firefighting equipment. Roads/lanes must be kept clear at all times.

6. Processing Equipment

All permanently affixed, stationary and/or truck-mounted equipment used for sifting, chipping/mulching, shredding, crushing, mixing, separating and like procedures shall be subject to City approval and City code conditions. Owner/Developer must notify the City at least 30 days prior to locating any such new equipment at the Property.

The City and/or its agents and representatives shall ~~have reserve~~ the right to inspect the Recycling/Receiving/Processing Areas at the Property. The City shall provide the Owner/Developer with 24 hours notice prior to inspection except in such cases where an imminent risk to human health and/or the environment is determined.

R. C&D Disposal Area (Landfill) Stipulations

The C&D Disposal Area (Landfill) was officially closed by the FDEP on July 23, 2007. Long-term care of the landfill is regulated by FDEP Permit Number SO64-126923-004 and Chapter 62.701, F.A.C. All conditions and rules stipulated in those documents are hereinto incorporated into this Agreement by reference. All notification requirements specified in FDEP Permit Number SO64-126923-004 shall also apply to City notifications in such that the Owner/Developer shall be required to notify FDEP and the City whenever such a qualifying event occurs at the Property. Violations and/or non-compliance citations issued by FDEP shall be considered by the City to also be a record of violation of the terms of this Agreement and subject to enforcement under Section 13 hereof.

The City and/or its agents and representatives shall ~~have reserve~~ the right to inspect the C&D Disposal Area at the Property. The City shall provide the Owner/Developer with 24 hours notice prior to inspection except in such cases where an imminent risk to human health and/or the environment is determined.

SECTION 8. LANDSCAPE AND BUFFERING

All landscaping and buffering shall be as provided in the Master Development Plan and site plan attached as Exhibit "C" and Exhibit "D" respectively and shall otherwise conform to the landscaping requirements of the Orange City Land Development Code Ordinance Number 157 except as may be otherwise provided in Section 7 of this Agreement, pertaining to Stipulations or Departures.

Twelve months following completion of the development, and issuance of the first certificate of occupancy for the first building, the Development Services Department shall conduct an on-site visual inspection of the tree and landscaping to assure that the trees and landscaping are healthy, and meet applicable City codes. Any dead, dying, or substandard vegetation must be replaced at that time. This responsibility shall be met by the Owner/Developer as long as it owns fee title to the Property, and thereafter by its successors in title.

SECTION 9. VEHICULAR AND PEDESTRIAN AREAS

All roadway and pedestrian areas within the project boundary will remain under the ownership and responsibility of the Owner/Developer of the property.

SECTION 10. EXPANSIONS, AMENDMENTS & MODIFICATIONS TO THIS AGREEMENT

A. Expansions, amendments, and modifications to this Development Agreement, if requested by the Owner/Developer, may be permitted following review by the Planning Commission and in conformance with the City's Land Development Code Ordinance Number 157.

B. Minor modifications to this Agreement, requested by the Owner/Developer, may be authorized by the Development Services Director or as otherwise provided by the City's Land Development Code.

C. Orange City reserves the right to require inclusion into the Development Agreement other reasonable requirements or regulations.

SECTION 11. APPLICABLE LOCAL LAW

The City's ordinances, resolutions, and policies shall govern the development of this Property unless otherwise specifically provided in this Agreement. All development approvals and permits specified by the City's Land Development Code, Ordinance Number 157, as amended, shall be required for the developer of the Owner/Developer's Property ~~contained in the City's Land Development Code Ordinance Number 157~~. Failure to list any approval or permit required by Federal, State or local laws in this Development Agreement and Order shall not be construed to release the Owner/Developer from obtaining same. Nothing as contained in this Agreement shall be construed as the grant of a land use or development approval or to be in derogation of the City's police powers.

SECTION 12. AGREEMENT TO BE BINDING

This Development Agreement, including any and all supplementary orders and resolutions, together with the approved development plan and all final site plans shall be binding upon the Owner/Developer and their successors and assigns in title or interest. The provisions of the Development Agreement and all approved plans shall run with the land and shall be administered in a manner consistent with Florida Statutes and local law.

SECTION 13. ENFORCEMENT

Violations of this Development Agreement and Order may be subject to enforcement through the City's Code Enforcement proceedings authorized in Chapter 162, Florida Statutes, or by proceedings for Injunctive or other judicial relief to specifically abate such violations, by intervention in administrative proceedings instituted by any agency of the State, or by any other remedy authorized by law. In the event that enforcement of this Agreement by the City becomes

necessary, and the City is successful in such enforcement, the Owner/Developer shall be responsible for all costs and expenses, including attorney and professional consulting fees whether or not litigation is necessary and if necessary, both trial and on appeal, incurred in enforcing or ensuring compliance with the terms and conditions of this Agreement which costs, expenses and fees shall also be a lien upon the Property, and any other properties which may be subject to code enforcement lien or judgment lien by law, superior to all others. Should this Development Agreement and Order require the payment of any monies to the City, the recording of this Agreement shall constitute a lien upon all such properties for said monies, until said are paid, in addition to such other obligations as this Agreement may impose upon the Property and the Owner/Developer. Interest on unpaid overdue sums shall accrue at the prescribed statutory rate compounded annually.

SECTION 14. INDEMNIFICATION

The Owner/Developer and its assigns and successors in interest shall indemnify and hold harmless the City from and against all claims, demands, disputes, damages, costs, expenses (to include attorney's fees whether or not litigation is necessary and if necessary, both at trial and on appeal), incurred by the City as a result, directly or indirectly, of the use or development of the property described in Section 2 above, except those claims or liabilities caused by or arising from the gross negligence of the City, or its employees or agents. It is specifically understood that the City is not guaranteeing the appropriateness, efficiency, quality or legality of the use or development of the Property, including, but not limited to, drainage or sewer plans, fire safety, or quality of construction, whether or not inspected, approved, or permitted by the City.

SECTION 15. COMPLIANCE

The Owner/Developer agrees that it, and its successors and assigns, will abide by the provisions of this Agreement, the City's Comprehensive Plan, and the City's Land Development Code, including but not limited to, the site plan regulations of the City as amended from time to time, which are incorporated herein by reference and such subsequent amendments hereto as may be applicable. Further, all required improvements, including landscaping, shall be continuously maintained by the Owner/Developer, or its successors and assigns, in accordance with the City's Land Development Code. The City may, without prejudice to any other legal or equitable right or remedy it may have, withhold permits, certificates of occupancy or approvals, and may terminate sewer and/or water services to the Property should the Owner/Developer fail to comply with the terms of this Agreement.

SECTION 16. UTILITY EASEMENTS

The Owner/Developer shall provide to the City such easements and other legal documentation, in a form and location mutually acceptable to the City Attorney and the Owner/Developer, as the City may deem reasonably necessary or appropriate for the installation and maintenance of the utility and other services, including but not limited to, sewer, potable water, and reclaimed water services, electric, cable and telecommunications, to the extent the City installs said utilities and/or has a duty to maintain the same.

SECTION 17. CONCURRENCY AND VESTED RIGHTS

The Owner/Developer acknowledges and agrees that prior to the issuance of any building permit(s) for the Property, the Owner/Developer must have received and be in the possession of a valid and unexpired certificate from the Utility provider, ~~which~~ ~~The valid and unexpired certificate in the form attached hereto as Exhibit "E"~~ verifies the reservation of infrastructure capacity sufficient to permit development pursuant to the approved Master Development Plan, for the Property without causing a reduction in the levels of service adopted in the City's comprehensive plan, ~~and The valid and unexpired certificate in the form attached hereto as Exhibit "E"~~ shall be effective for a term as defined in the City's Land Development Code. This Development Agreement and the approved site plan

creates a vested right or rights to develop the Property and constitutes a current and valid and unexpired Certificate of Capacity. Nothing in this section shall constitute a vested right to commence or continue any activity which constitutes a public nuisance.

SECTION 18. RESOLUTIONS AND REGULATIONS

This Agreement shall not operate as a limitation upon the City to require the Owner/Developer to comply with all applicable laws, ordinances, resolutions and regulations of either the United States, the State of Florida, Volusia County or the City, regulating the development of the Owner/Developer's Property and the Owner/Developer's Property in accordance with this Agreement to the extent that same are not specifically addressed or referenced herein, nor shall the failure of this Agreement to address any particular requirement act to relieve the Owner/Developer from complying with any development requirement, condition, term or restriction.

SECTION 19. PERIODIC REVIEW

The City shall review the Owner/Developer's Property at least once every 12 months to determine if there has been demonstrated good faith compliance with the terms of this Agreement.

SECTION 20. SUBSEQUENTLY ENACTED STATE AND FEDERAL LAW

If state or federal laws are enacted after the execution of this Agreement which are applicable to and preclude the parties' compliance with the terms of this Agreement, this Agreement shall be modified or revoked as is necessary to comply with the relevant state or federal laws.

SECTION 21. GOVERNING LAW; VENUE

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The Venue for purpose of litigation shall be the Seventh Judicial Circuit in Volusia County, Florida.

SECTION 22. COOPERATION IN THE EVENT OF LEGAL CHALLENGE

In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provisions of this Agreement, the parties hereby agree to cooperate in defending such action.

SECTION 23. CITY'S OBLIGATIONS

This Agreement shall not be deemed to pledge the credit of the City nor to make the City a co-venturer or partner of the Owner/Developer.

SECTION 24. NOTICES

Where notice is herein required to be given, it shall be by certified mail return receipt requested, addressee only, hand delivery or courier. Said notice shall be sent to the following as applicable:

OWNER/DEVELOPER'S REPRESENTATIVE:

GEL Corporation
Eugene Milton Evans Jr.
1200 South Leavitt Avenue
Orange City, Florida 32763

CITY'S REPRESENTATIVE:

City of Orange City
Chester Murray, Interim City Manager
205 East Graves Avenue
Orange City, Florida 32763

Should any party identified above change, it shall be said party's obligation to notify the remaining parties of the change in a fashion as is required for notices herein. It shall be the Owner/Developer's obligation

to identify its lender(s) to all parties in a fashion as is required for notices herein.

SECTION 25. RECORDING

This Development Agreement shall be recorded, at Owner/Developer's expense, among the Public Records of Volusia County, Florida in accordance with the requirements of the Zoning Ordinance no later than fourteen (14) days after full execution. Notwithstanding the foregoing, the same shall not constitute any lien or encumbrance on title to the Property and shall instead constitute record notice of governmental regulations which may regulate the use and enjoyment of the Property.

SECTION 26. SUBSEQUENT COSTS

The cost of defending this Development Agreement with a mutually agreeable attorney from third party challenges, in any form, shall be born by the Owner/Developer.

SECTION 27. TIME IS OF THE ESSENCE

Time is hereby declared of the essence as to the lawful performance of all duties and obligations set forth in this Development Agreement.

SECTION 28. ENTIRE AGREEMENT/CONTINUING EFFECT/EFFECT UPON OTHER AGREEMENTS

A This Development Agreement constitutes the entire agreement between the parties as to the matters set forth herein and supersedes all previous understandings, discussions and agreements to the contrary as to all matters set forth herein whether oral, expressed or implied.

B No variations, modifications, amendments or changes shall be binding upon the parties unless set forth in a written agreement executed by all parties of equal dignity herewith.

C This Development Agreement may be one in a series of development approvals relating to the Owner/Developer's Property. This Development Agreement shall not operate to supersede, release or satisfy any commitment or condition in any other development order or permit, except for the Development Agreement recorded as Official Records Book 4831 at Pages 1616 through 1629, Public Records of Volusia County, nor shall the entry of this Development Agreement operate to limit the imposition of terms, conditions and commitments in other development orders or permits unless inconsistent herewith.

SECTION 29. NON-WAIVER

No consent or waiver, expressed or implied, by either party, to or of any breach or default of the other party, with regard to the performance by said other party of its obligations under this Development Agreement shall be deemed or construed to constitute consent or waiver, to or of, any other breach or default in the performance of that party, of the same or of any other objection of performance incumbent upon that party. Failure on the part of any party to complain of any act or failure to act on the part of the other party in default, irrespective of how long the failure continues, shall not constitute a waiver by that party of its rights and any remedies that exist under this Development Agreement, at law, or in equity.

SECTION 30. CONSTRUCTION

A. This Development Agreement shall not be construed against any party on the basis of it being the drafter of the Development Agreement. The parties agree that the parties herein played an equal part in reciprocity in drafting this Development Agreement.

B. Capitalized terms contained herein shall have no more force nor effect than uncapitalized terms.

C. Captions and section headings in this Development Agreement are provided for convenience only and shall not be deemed to explain, modify, amplify or aid in the interpretation,

construction or meaning of this Development Agreement.

D. There are no third party beneficiaries to this Agreement. This Development Agreement is entered into exclusively for the benefit of the parties herein.

SECTION 31. FURTHER ASSURANCES

A. Each party hereto agrees to sign any other and further instruments and documents, consistent herewith, as may be necessary and proper in order to give complete effect to the benefits deriving from the terms and conditions of this Development Agreement.

B. The Owner/Developer warrants that it will cause the holders of any and all mortgages and liens relating to the Owner/Developer's Property to execute the Joinder attached to this Development Agreement. If the Owner/Developer fails to attain such ~~Joinder~~ joinder, said party shall lose all rights and benefits deriving hereunder.

SECTION 32. CURATIVE PERIODS

No default as to any provision of this Agreement on the part of either the City or the Owner/Developer shall be claimed or charged by either party against the other until notice thereof has been given to the defaulting party as provided herein above in Section 6 in writing, and such default remains uncured for a period of ten (10) days after such notice. In addition to the remedies provided in Section 13 above, each Each party hereto shall also have the right to seek specific performance in circuit court for any uncured defaults as to any provision of this Agreement. The prevailing party in any litigation to enforce the terms of this Agreement shall be entitled to reasonable attorney's fees and costs from the defending party associated with said litigation.

SECTION 33. SEVERABILITY

If any part of this Development Agreement is found invalid or unenforceable in any court, such invalidity or unenforceability shall not affect the other parts of this Development Agreement, if the rights and obligations of the parties contained herein are not materially prejudiced and if the intentions of the parties can be affected. To that end, this Development Agreement is declared severable.

SECTION 34. EFFECTIVE DATE

This Agreement shall not be effective and binding until the latest date that (1) this Agreement is approved by and signed by all parties hereto; (2) all mortgagees and/or lien holders on the Owner/Developer's Property have executed a Joinder by Mortgagee/Lien holder; and (3) Ordinance Number 323 shall become effective.

IN WITNESS WHEREOF, the Owner/Developer and the City have executed this Agreement as of the day and year first above written.

Signed, Sealed and Delivered
In the Presence of:

OWNER/DEVELOPER
GEL Corporation

Signature of Witness #1
Printed Name: _____

By: _____
Signature
Printed Name: Eugene Milton Evans Jr.
Title: Owner / Developer

MAILING ADDRESS:
Eugene Milton Evans Jr.
1200 Leavitt Avenue
Orange City, Florida 32763

Signature of Witness #2
Printed Name: _____

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2009, by Eugene Milton Evans Jr. as owner of GEL Corporation, who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

Notary Public
Printed Name: _____

My commission expires: _____

Approved as form and
legality for use and reliance by the
City of Orange City, Florida.

CITY OF ORANGE CITY, FLORIDA

William E. Reischmann, Jr., Esquire

By: _____
Harley Strickland, Mayor

ATTEST:

By: _____
Deborah J. Renner, City Clerk

MAILING ADDRESS:
205 E. Graves Avenue
Orange City, Florida 32763

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2009,
by HARLEY STRICKLAND and DEBORAH J. RENNER, Mayor and City Clerk respectively, of the City of
Orange City, Florida, who are personally known to me and they acknowledged executing the same freely
and voluntarily under authority vested in them and that the seal affixed thereto is the true and corporate
seal of the City of Orange City, Florida.

_____ as identification and who did (did not) take an oath.

Notary Public
Printed Name: _____

My commission expires: _____

This Instrument prepared by:
Catherine D. Reischmann, Esquire
Brown, Garganese, Welss & D'Agresta, P.A.
225 East Robinson Street, Suite 660
Orlando, Florida 32802-2873

To be returned to:
Debbie Renner
City of Orange City
205 E. Graves Avenue
Orange City, Florida 32763

EXHIBIT 'A'
Legal Description
GEL Corporation Property

Legal Description - A portion of Vineland Park Subdivision

Lots 1 to 19, inclusive, and Lots 41 to 50, inclusive, Block 1; Lots 1 to 18, inclusive, and Lots 39 to 48, inclusive, Block 2; Lots 1 to 48, inclusive, Block 3; Lots 1 to 48, inclusive, Block 4; Lots 1 to 50, inclusive, Block 5; Lots 1 to 50, inclusive, Block 6; Lots 1 to 48, inclusive, Block 7; Lots 1 to 48, inclusive, Block 8; Lots 1 to 48, inclusive, Block 9; Lots 1 to 50, inclusive, Block 10; and Bell Avenue, Lying East of the Easterly Right of Way of Leavitt Avenue and West of the Westerly Right of Way of Trafford Avenue; and Willard Street lying South of the Northerly boundary of said Lot 41, Block 1 and Lot 18, Block 2 and North of the Northerly Right of Way of Rhode Island Avenue; and Green Street lying South of the Northerly boundary of said Lot 39, Block 2 and North of the Northerly Right of Way of Rhode Island Avenue; and the E ½ of Green Street lying North of the Easterly extension of the Northerly boundary of said Lot 39, Block 2 and South of the Southerly Right of Way of Georgia Avenue and Booth Street lying South of the Southerly Right of Way of Georgia Avenue and North of the Northerly Right of Way of Rhode Island Avenue; and Henry Street lying South of the Southerly Right of Way of Georgia Avenue and North of the Northerly Right of Way of Rhode Island Avenue, Vineland Park, a subdivision according to map in Map Book 7, Page 77, Public Records of Volusia County, Florida, and being more particularly described as follows: Commencing at the Southwest corner of the SE ¼ of Section 11, Township 18 South, Range 30 East, Volusia County, Florida, run thence S 89°51'34" E along the South line of said SE ¼ a distance of 30.00 feet; run thence N 00°03'53" W along a line 30.00 feet East of at right angle to and parallel with the West line of said SE ¼ a distance of 30.00 feet to the point of intersection of the Northerly Right of Way of Rhode Island Avenue and the Easterly Right of Way line of Leavitt Avenue, as now established and the Point of Beginning. Continue thence N 00°03'53" W along said Easterly Right of Way a distance of 1017.13 feet; run thence S 89°48'50" E a distance of 512.65 feet; run thence N 00°00'36" E a distance of 251.80 feet to a point on the Southerly Right of Way of Georgia Avenue; run thence S 89°48'00" E along said Right of Way a distance of 755.48 feet to a point on the Westerly Right of Way of Trafford Avenue; run thence S 00°03'45" E along said Right of Way a distance of 1267.74 feet to a point on aforesaid Northerly Right of Way of Rhode Island Avenue; run thence N 89°51'34" W along said Right of Way lying 30.00 feet North of at right angle to and parallel with aforesaid South line of the SE ¼ a distance of 1268.40 feet to the Point of Beginning. Being subject to any Easements and Rights of Way of Record.

Exhibit E

Resolution No. 510-08

GEL Recycling Site Plan

Conditions of Approval

Condition No. 1 - Sidewalk on Rhode Island

The City's land development code requires that sidewalks be installed along streets that front the development, of which, Leavitt Avenue and Rhode Island Avenue currently front the property on the west and south sides of the site. The applicant will be installing a sidewalk along Leavitt Avenue, but the Rhode Island right-of-way contains drainage at this time. **Staff recommends that instead of the immediate installation of the sidewalk on the north side of Rhode Island, that the applicant contribute to the sidewalk fund for future sidewalk installation. 1,298.5 linear feet x \$18 = \$23,373.**

Condition No. 2 – Property Zoning Approval

The proposed processing of household and C&D recycling items, the onsite storing and shipping of the recycled materials is not permitted in any zoning district in the City. The City Council approved an amendment to the land development code (Ordinance 367 approved on January 13, 2009) that will permit the proposed usage in the I-PUD zoning district. However, the property must be rezoned via Ordinance No. 365 before this site plan can be approved. **Staff recommends approval of the master plan and site plan subject to City Council approval of the GEL property rezoning (Ordinance No. 365).**

Condition No. 3 – City Engineer and City Attorney Approval

The City Engineer and City Attorney are conducting ongoing reviews regarding this development. **Staff recommends approval of the site plan subject to City Engineer and City Attorney approvals.**

Condition No. 4 – St Johns Approval

The St Johns River Water Management District has not completed its review of the St Johns storm water permit. **Staff recommends approval of the master plan and site plan subject to final approval from St Johns.**

Condition No. 5 – Sprinkler Box Relocation

Staff and the Planning Commission recommend the sprinkler box be relocated to the inside of the screening wall so it will not be seen from the adjoining right-of-way and adjoining property.

Explanation of Code Departures

Departure No. 1 = Pedestrian Access

The proposed development requires a pedestrian access from the sidewalk on Leavitt to the front door of the office building as per Section 10.6.3 of the land development code. The applicant requests a departure from this requirement, based on the following justification, wherein the applicant has stated as follows.

“Due to the nature of the activities onsite it would be hazardous for pedestrians. The owner is responsible for the safety of those working within the facility. Unknown and unaware pedestrians, especially curious children, would be at risk and place excessive liability on the owner.”

Staff concurs with the above justification. The use of the property is industrial, and is not conducive to pedestrian entry to conduct shopping activities as would be the case in a shopping center. A sidewalk

at this location would be an invitation to enter the premises. **Staff recommends approval of the site plan subject to a departure from the pedestrian access requirement.**

Departure No. 2 = Perimeter Landscaping

Section 10.4.4.C and D of the land development code requires that perimeter landscaping and a bench be installed on the north and south sides of the proposed office building. The applicant requests a departure from this requirement, based on the following justification, wherein the applicant has stated as follows.

"The north and south sides of the building will have elevated scales for trucks to drive onto as part of the operation of the facility. Any vegetation (trees and shrubs) planted in this area will interfere with the normal operation of the scale house. Additionally, the plants would be down inside a depressed area creating a hazard for drivers entering and exiting their vehicles. These sides of the building will have extremely limited visibility from Leavitt Avenue and no visibility from adjacent properties."

Staff concurs with the above justification. **Staff recommends approval of the master plan and site plan subject to a departure from the landscaping and bench requirement along the north and south sides of the office building.**

Departure No. 3 = Peaked Roof

Section 10.4.8.A requires that building elevations possess a peaked roof consisting of hip, gambrel, gable, etc. In the event that mechanical equipment is installed on the roof, the roof must be designed in such a manner as to eliminate the appearance of a flat roof design. The applicant does propose to install a solar panel electric generating system that will encompass the entire roof area, making it impossible to provide a peaked roof, and making it impossible to "eliminate the appearance of a flat roof design" by installing a mansard without significantly reducing the size of the solar panels. **Staff recommends that a peaked roof departure be provided to the applicant for the following reasons. (1) The top of the building cannot be seen from the south side from Rhode Island or Leavitt Avenues. (2) The top of the building cannot be seen from the north side from Leavitt Avenue because of the 16-foot wall and because of the proposed palm trees located on the north side of the wall.**

Departure No. 4 = Live Oak Canopy Trees

Section 10.5.1.A requires that front yard buffers shall be landscaped with live oak trees of a minimum four inch diameter at breast height (DBH), and 15 feet in height at planting and located along a line that is midway within the buffer. The trees are required to be planted every 40 feet. However, there are several conditions that exist wherein the applicant is not able to comply with this requirement on Leavitt Avenue. (1) An overhead electrical power line is located in the front yard buffer. (2) Because of the landfill, landscaping experts have provided documentation indicating that Live Oak trees may not survive because of the ground conditions and the methane gas. Rather than go to the expense of installing trees that will only die, the applicant suggested this departure. Instead of Live Oaks on 40-foot centers, the applicant will install large palm trees on 20-foot centers. This will also provide some visual screening to break up the wall. The same type and size palm trees will be installed along Rhode Island and the north property line.



Orange City Development Services Department
205 East Graves Avenue, Orange City, Florida 32763-5299
Phone 386 775-5414 - Fax 386 775-5420
E-mail: jkerr@ci.orange-city.fl.us

MEMORANDUM

Date: November 24, 2008
To: Chairman Seaman and members of the Planning Commission
Prepared by: J.H.Kerr III, City Planner

**SUBJECT: REVIEW AND CONSIDERATION OF GEL CORPORATION
(I-PUD) INDUSTRIAL PLANNED UNIT DEVELOPMENT SITE PLAN
SITE PLAN DATED: October 22, 2008**

Recommendation

The Technical Review Committee has reviewed the GEL Corporation I-PUD Industrial Planned Unit Development project and finds that the planned development and site plan meet the minimum standards per the City's Land Development Code, and is compatible with the adjoining industrial community. Therefore, based on competent substantial evidence, planning staff recommends the Planning Commission consider a recommendation to City Council for approval of the GEL Corporation master planned development and site plan application as follows:

The Planning Commission recommends that the City Council approve the master planned development and site plan for the GEL Corporation (I-PUD) Industrial Planned Unit Development, to be located within the northeast quadrant of Rhode Island Avenue and Leavitt Avenue, consisting of Lots 1 through 19 and Lots 41 through 50, Block 1; Lots 1 through 18 and Lots 39 through 48, Block 2; and all of Blocks 3, 4, 5, 6, 7, 8, 9, and 10; within the Vineland Park Subdivision, Map Book 21, Page 85, and including the street rights-of-way contained therein between said blocks; subject to any conditions and departures listed herein.

Background

The subject property is located within the northeast quadrant of Rhode Island Avenue and Leavitt Avenue. The use of the subject property as a solid waste landfill (aka Lake Marie Landfill) commenced in approximately 1970. Following the closure of the landfill in 1984, the property was purchased by the Evans family in 1985, and was annexed into the City in April of 1986. The property was rezoned to the I-2 Heavy Industrial zoning classification in 1991. In 1994, GEL applied for a permit to construct a building to conduct recycling. This building was approved by the Planning Commission in October of 1994 subject to GEL submitting a master development plan for approval by the City. This master site plan was submitted only recently, and is being forwarded to the Commission for review and consideration of approval.

Detailed Property Land Use and Zoning Description

Subject: The subject property is in the City's jurisdiction, and maintains an IH Industrial Heavy land use designation and an I-2 Heavy Industrial zoning classification. The subject

property maintains a solid waste landfill that was closed in 1984, and the property is currently used as a household and C&D recycling facility.

Table 1 OVERVIEW OF LAND USE AND ZONING STATUS

	Designated Land Use	Zoning Classification	Existing Land Use	Percent Developed	Jurisdiction
SUBJECT PROPERTY	IH Industrial Heavy	I-2 Heavy Industrial	Landfill & Recycling	100	City
ADJOINING TO NORTH	IL Industrial Light	I-1 Light Industrial	Industrial	100	City
ADJOINING TO SOUTH	IL Industrial Light	I-1 Light Industrial	Industrial	50	City
ADJOINING TO EAST	IL Industrial Light	I-1 Light Industrial	Vacant and undeveloped	None	City
ADJOINING TO WEST	IL Industrial Light	I-1 Light Industrial	Industrial	None	City

North: The property adjoining to the north of the subject property is located within Orange City's jurisdiction, and maintains an IL Industrial Light land use designation and an I-1 Light Industrial zoning classification. The property to the north is developed as a truck storage facility and industrial usage.

South: The property adjoining to the south of the subject property is located within Orange City's jurisdiction, and maintains an IL Industrial Light land use designation and an I-1 Light Industrial zoning classification. The property to the south is developed as industrial usage.

East: The property adjoining to the east of the subject property is located in Orange City's jurisdiction, and maintains an IL Industrial Light land use designation and an I-1 Light Industrial zoning classification. The property to the east is currently vacant and undeveloped.

West: The property adjoining to the west of the subject property lies within Orange City's jurisdiction, and maintains an IL Industrial Light land use designation and an I-1 Light Industrial zoning classification. The property to the west is vacant and undeveloped at this time.

Project Analysis

Milton (Geno) Evans, Jr., owner and applicant, has submitted an (I-PUD) preliminary master development plan and site plan to construct an office building as part of the existing recycling facility, which said master plan and site plan will be the subject of this report.

Following the submittal of the application packet on June 9, 2008, the Technical Review Committee (TRC) met on August 28, 2008, to thoroughly review this project for issues related to those listed in Section 7 of the City's land development code, including the design of the traffic access, water and sewer, storm water drainage retention, parking, landscaping, appear-

ance standards, etc. The TRC recommended that the GEL master development plan and site plan be approved subject to any conditions and departures listed herein.

Property Characteristics

As mentioned above, the subject property is currently developed as a recycling facility and the property maintains a relatively flat terrain. There are no trees currently existing onsite due to the property being used as a landfill for over 35 years.

Water and Wastewater

The proposed development lies within the Orange City Utilities water and wastewater service area. According to Orange City Utilities, sufficient capacity exists to meet the water and wastewater demands of the proposed industrial project.

Tree Planting and Protection

The 12.5-acre development requires a total of 1,307 diameter inches of trees on the entire site to meet the Tree Planting and Preservation requirements of Section 7 of the land development code. As previously stated, there are no trees currently existing onsite due to the property being used as a landfill for over 35 years. The developer will provide a minimum total of 1,514 diameter inches of trees abutting the 12.5 acres.

Explanation of Conditions

Condition No. 1 - Sidewalk on Rhode Island

The City's land development code requires that sidewalks be installed along streets that front the development, of which, Leavitt Avenue and Rhode Island Avenue currently front the property on the west and south sides of the site. The applicant will be installing a sidewalk along Leavitt Avenue, but a sewer line is proposed to be installed on the north side of the Rhode Island right-of-way. **Staff recommends that instead of the immediate installation of the sidewalk on the north side of Rhode Island, that the applicant contribute to the sidewalk fund for the future sidewalk installation. 1,298.5 linear feet x \$18 = \$23,373.**

Condition No. 2 – Land Development Code Amendment Approval

The proposed processing of household and C&D recycling items, the onsite storing and shipping of the recycled materials is not permitted in any zoning district in the City. However, an administrative amendment to the land development code has been reviewed and approved by the Planning Commission (on November 19, 2008) that will permit the proposed usage in the I-PUD zoning district. **Staff recommends approval of the master plan and site plan subject to City Council approval of the Land Development Code amendment (Ordinance No. 367).**

Condition No. 3 – City Engineer and City Attorney Approval

The City Engineer and City Attorney are conducting ongoing reviews regarding this development. **Staff recommends approval of the site plan subject to City Engineer and City Attorney approvals.**

Condition No. 4 – St Johns Approval

The St Johns River Water Management District has not completed its review of the St Johns storm water permit. **Staff recommends approval of the master plan and site plan subject to final approval from St Johns.**

Explanation of Code Departures

Departure No. 1 = Pedestrian Access

The proposed development requires a pedestrian access from the sidewalk on Leavitt to the front door of the office building as per Section 10.6.3 of the land development code. The applicant requests a departure from this requirement, based on the following justification, wherein the applicant has stated as follows.

“Due to the nature of the activities onsite it would be hazardous for pedestrians. The owner is responsible for the safety of those working within the facility. Unknown and unaware pedestrians, especially curious children, would be at risk and place excessive liability on the owner.”

Staff concurs with the above justification. The use of the property is industrial, and is not conducive to pedestrian entry to conduct shopping activities as would be the case in a shopping center. A sidewalk at this location would be an invitation to enter the premises. **Staff recommends approval of the site plan subject to a departure from the pedestrian access requirement.**

Departure No. 2 = Perimeter Landscaping

Section 10.4.4.C and D of the land development code requires that perimeter landscaping and a bench be installed on the north and south sides of the proposed office building. The applicant requests a departure from this requirement, based on the following justification, wherein the applicant has stated as follows.

“The north and south sides of the building will have elevated scales for trucks to drive onto as part of the operation of the facility. Any vegetation (trees and shrubs) planted in this area will interfere with the normal operation of the scale house. Additionally, the plants would be down inside a depressed area creating a hazard for drivers entering and exiting their vehicles. These sides of the building will have extremely limited visibility from Leavitt Avenue and no visibility from adjacent properties.”

Staff concurs with the above justification. **Staff recommends approval of the master plan and site plan subject to a departure from the landscaping and bench requirement along the north and south side of the office building.**

Departure No. 3 = Peaked Roof

Section 10.4.8.A requires that building elevations possess a peaked roof consisting of hip, gambrel, gable, etc. In the event that mechanical equipment is installed on the roof, the roof must be designed in such a manner as to eliminate the appearance of a flat roof design. The applicant does propose to install a solar panel electric generating system that will encompass the entire roof area, making it impossible to provide a peaked roof, and making it impossible to “eliminate the appearance of a flat roof design” by installing a mansard without significantly reducing the size of the solar panels. **Staff recommends that a peaked roof departure be provided to the applicant for the following reasons. (1) The top of the building cannot be seen from the south side from Rhode Island or Leavitt Avenues. (2) The top of the building cannot be seen from the north side from Leavitt Avenue because of the 16-foot wall and because of the proposed palm trees located on the north side of the wall.**

Departure No. 4 = Live Oak Canopy Trees

Section 10.5.1.A requires that front yard buffers shall be landscaped with live oak trees of a minimum four inch diameter at breast height (DBH), and 15 feet in height at planting and located along a line that is midway within the buffer. The trees are required to be planted every 40 feet. However, there are several conditions that exist wherein the applicant is not able to comply with this requirement on Leavitt Avenue. (1) An overhead electrical power line is located in the front yard buffer. (2) Because of the landfill, landscaping experts have provided documentation indicating that Live Oak trees may not survive because of the ground conditions and the methane gas. Rather than go to the expense of installing trees that will only die, the applicant suggested this departure. Instead of Live Oaks on 40-foot centers, the applicant will install large palm trees on 20-foot centers. This will also provide some visual screening to break up the wall. The same type and size palm trees will be installed along Rhode Island and the north property line.

Summary

City staff has worked very closely with the applicant in order to maintain a recycling facility in an area that will serve the recycling needs of Orange City. The Technical Review Committee has attempted to determine and accomplish what was in the best interests of the City, and the immediate industrial community. The Technical Review Committee feels that the applicant's project will provide a quality development that will be an asset to the community. Staff recommends approval subject to the any conditions listed in this report.

Planning Commission Responsibilities

Section 7.5.2.E. After the planning commission has considered any applicant, staff and/or public comments, and the TRC recommendations, the commission may approve, approve with conditions or deny the site plan application. If additional time is needed to allow for the resolution of outstanding issues, the commission may table the application until there next meeting at which time the commission shall approve, approve with conditions or deny said application. Failure to respond to the outstanding issues shall result in a denied site plan application. A site plan application that receives unconditional or conditional approval may be issued a development order in accordance with the provisions of section 7.5 of this chapter.

City Council Responsibilities

Section 7.5.3. City council review and approval process. If the proposed site plan application is for a development more than five acres in land area, said application shall be subject to the following review and approval process.

A. The site plan application shall be processed and reviewed as set forth in section 7.5.2.A.E. of this chapter, except that the planning commission's final decision will be in the form of a recommendation to the city council for final action. The DSD shall schedule the planning commission's recommendation for city council action within 30 days of the commission's recommendation.

B. After the city council has considered any applicant, staff and/or public comments and the planning commission recommendations; the city council may approve, approve with conditions, or deny the site plan. If additional time for a decision is needed to allow for the resolution of outstanding issues, the city council may table the application for a period not to exceed 45 days. Failure to respond to the outstanding issues shall result in a denied site plan application. A site plan application that receives unconditional or conditional approval may be issued a development order in accordance with the provisions of section 7.5 of this chapter.

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6. Review and Consideration for the purpose to consider a recommendation to City Council regarding a request from Milton Evans Jr. (dba G.E.L. Corporation) for approval of a site plan to develop a recycling facility consisting of 24,708 square feet of buildings on property consisting of 33.81 acres located within the northeast quadrant of Rhode Island Avenue and Leavitt Avenue, consisting of Lots 1 through 19 and Lots 41 through 50, Block 1; Lots 1 thorough 18 and Lots 39 through 48, Block 2; and all of Blocks 3, 4, 5, 6, 7, 8, 9, and 10; within the Vineland Park subdivision, Map Book 21, Page 85, and including the street rights-of-way contained therein between said blocks.

Commissioner Storke moved that the Planning Commission recommend City Council approval of the master planned development and site plan for the GEL Corporation I-PUD Industrial Planned Unit Development to be located within the northeast quadrant of Rhode Island Avenue and Leavitt Avenue consisting of Lots 1 through 19 and Lots 41 through 50, Block 1; Lots 1 through 18 and Lots 39 through 48, Block 2; and all of Blocks 3, 4, 5, 6, 7, 8, 9, and 10; within the Vineland Park subdivision, Map Book 21, Page 85, and including the street rights-of-way contained therein between said blocks subject to any conditions and departures listed herein, seconded by Commissioner Weldon.

Mr. Kerr advised that the Planning Commission is considering a recommendation of approval of the GEL recycling site plan which only encompasses a portion of the subject property. Mr. Kerr noted the locations of the proposed new buildings on a map of the property.

Mr. Kerr introduced Allen Watts, Cobb Cole; Mike Cash, CSI Engineering; Mr. Geno Evans; and Kelly Eger, Miller Legg who were present in the audience. He noted that the staff recommendation for approval is subject to the following conditions: (1) construction of a sidewalk on Rhode Island upon completion of the work related to the installation of sewer lines; (2) City Council approval of the amendment to the Land Development Code amending the zoning matrix to add recycling as an approved use; (3) approval of the City Engineer and City Attorney; (4) approval of the St. Johns River Water Management District; and (5) relocation of the control box for the irrigation system from the outside of the north wall to the inside. Mr. Kerr advised that all of the conditions have been agreed to by the applicant. He further elaborated that all of the utilities at this site will be located underground.

Next Mr. Kerr discussed the code departures that staff is recommending approval for in the site plan as follows: (1) Elimination of the pedestrian access requirement. Mr. Kerr advised that this requirement applies more to a retail facility, not an industrial facility. (2) Departure from perimeter landscaping requirements due to the location of the scales which would make it impossible to place the scales in their proposed location at the immediate south and north sides of the proposed facility. (3) Departure from the peaked roof requirement. Mr. Kerr noted that the building is not visible from the street. He said that the applicant intends to install solar collectors which will be used to generate electricity. The solar collectors will encompass 100% of the roof of the building. Mr. Kerr advised that the roof on the front of the building will give the appearance of a peaked roof. (4) Live Oak Canopy Trees. Mr. Kerr said that it was felt by all involved that Live Oak trees probably would not survive on the site because of the unusual conditions. He said that the applicant is proposing to plant Washingtonian Palm Trees at 20-foot intervals in place of the Live Oaks along Rhode Island and Leavitt Avenues, as well as along the wall at the north property line.

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Commissioner Storke referred to the terminology “recovered screen material” used in the staff report and requested clarification as to what that means. Ms. Eger came forward and said that the reference is to the material that is screened out of the load of recyclables brought to the facility such as dirt, bits of glass, etc. She said that Mr. Evans has recently located someone in the County who is willing to dispose of the material. She assured the Commission that it is not hazardous material.

Commissioner Franklin asked whether the existing wall around the property would remain. Mr. Kerr responded that it would and that it would be extended down to Rhode Island. He said that the departure regarding the pedestrian access requirement was being waived because of the type of use. He clarified that pedestrian customer traffic would not be entering the facility. Mr. Murray said that the entire property would be surrounded by the wall eventually.

Commissioner DeSilva asked whether the height of the substituted palm trees would be comparable to the live oaks stipulated in code. Mr. Kerr said the trees would be between 14 and 18 foot tall.

Mike Cash, CSI Engineering, came forward and stated that he was available to answer any questions specific to the site plan.

Mr. Murray noted that this is an existing operation that the City is trying to modify and bring into 13 conformance with the code as much as possible given the “unique situation that exists there and the unique businesses there.” He said that the owners have made a “bona fide effort” to comply with the City’s requests. Mr. Murray said that all of the City’s consultants who have been working on this project are satisfied with the proposal and that they are recommending approval.

Commissioner Polgar questioned whether staff is in support of the departure from canopy trees to palm trees. Mr. Kerr clarified that staff supports all of the departures. Commissioner Polgar asked whether the change in type of tree would create any type of environmental impact. Mr. Kerr responded that he did not anticipate any. He noted that there is a power line in the middle of the buffer on Leavitt Avenue and that staff was advised by several “experts” not to use live oaks because they would die. Mr. Murray said that the recommendation to use palm trees also took into account the type of soil in the area.

Chairman Seaman asked for confirmation as to whether a lift station was to be placed on the property. Mr. Kerr responded in the affirmative. Chairman Seaman asked whether septic tanks were to be stored on the property or whether they were actually in the ground. Mr. Kerr responded that there was a septic tank business, but it has since relocated.

Commissioner Storke asked whether Condition #5 should be added as an amendment to the motion. Mr. Reischmann responded that an amendment to add it would be in order.

Commissioner Storke moved to amend the motion to include Condition #5 to relocate the sprinkler control box to the inside of the wall, seconded by Commissioner Franklin and passed by unanimous roll call vote.

Main motion as amended passed by unanimous roll call vote.