



Meeting Date: 6/22/2010

Agenda Item # 5-A

CITY COUNCIL AGENDA ITEM

Contact Name: Jim Kerr, City Planner

Department Director: *James Wilson*

Department/Contact # 386 775-5414

City Manager: *Janice Collier*

- Type of Item:
- | | | | |
|-------------------------------------|--------------------------|--------------------------|---------------------|
| <input type="checkbox"/> | Public Hearing | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | Ordinance First Reading | <input type="checkbox"/> | Discussion & Action |
| <input type="checkbox"/> | Ordinance Second Reading | <input type="checkbox"/> | Council Approval |

Subject: Amendment to Section 8.6.1 of the City's Land Development Code

BACKGROUND:

Section 8.6.1 of the City's land development code was amended by City Council on January 13, 2009, via Ordinance No. 367, to add "recycling activities" to the City's matrix of permitted uses. This amendment required that recycling activities be permitted as a planned development. As a result, it became necessary for any recycling activity to undergo (1) a development review as a planned development and (2) a rezoning of the property to an I-PUD and (3) require a development agreement.

The City recently enacted a settlement agreement with GEL Corporation in which the City agreed to modify the matrix as per the Exhibit A of the attached ordinance. This change to the matrix is agreeable to both parties and in no way excludes the City from implementing any code enforcement action resulting from a violation.

RECOMMENDATIONS:

City staff and the Planning Commission recommend that the City Council approve the proposed amendment to the land development code.

ATTACHMENTS:

- Ordinance No. 421
- Staff report to the Planning Commission dated 6-2-10.
- Minutes of the June 2, 2010 Planning Commission meeting

FINANCIAL IMPACT:

None anticipated

Reviewed by City Attorney _____

Reviewed by Finance Dept. _____

Reviewed by: _____

1st Discussion Date: 5/4/2010	2nd Discussion Date: Click here to enter a date.	Third Discussion Date: Click here to enter a date.	Other Dates: Click here to enter a date.
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ORDINANCE NO. 421

AN ORDINANCE OF THE CITY OF ORANGE CITY, FLORIDA, AMENDING ORANGE CITY CODE APPENDIX A, THE CITY'S LAND DEVELOPMENT CODE, AS ADOPTED BY ORDINANCE NO. 157; AMENDING CHAPTER 8, SECTION 8.6.1 SCHEDULE OF ZONING DISTRICT PERMITTED AND CONDITIONAL USES; MODIFYING COMPLIANCE REQUIREMENTS FOR RECYCLING ACTIVITIES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on August 12, 2003 the City Council of the City of Orange City adopted Appendix A, the City's Land Development Code, via Ordinance No. 157, thereby establishing a unified code to implement the comprehensive plan and establish a development review process, setting forth regulations and procedures governing the use and development of land for the purpose of protecting the health, safety, and general welfare of the citizens of the City of Orange City, to the end of improving the overall quality of life within the community; and

WHEREAS, on January 13, 2009 the City Council of the City of Orange City adopted Ordinance No. 367, to amend Chapter 8, Section 8.6.1 Schedule of Zoning District Permitted and Conditional Uses to permit recycling activities within the I-PUD zoning district; and

WHEREAS, the City Council of the City of Orange City deems it in the best interest of the City to amend Chapter 8, Section 8.6.1 Schedule of Zoning District Permitted and Conditional Uses to clarify compliance requirements for recycling activities within the I-PUD zoning district; and

WHEREAS, on June 2, 2010, the local planning agency, being the Planning Commission of the City of Orange City, reviewed the requested amendment to Section 8.6.1 and recommended these changes to the City Council; and

WHEREAS, all applicable notice requirements of Section 166.041(3)(c)(2), Florida Statutes, have been complied with; and

WHEREAS, the City Council of the City of Orange City finds the requested amendment to be consistent with the provisions of the Comprehensive Plan of the City of Orange City, and in the overall best interest of the public health, safety and welfare;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA, AS FOLLOWS:

SECTION ONE. Chapter 8, Section 8.6.1 Schedule of Zoning District Permitted and Conditional Uses of the City's Land Development Code is hereby amended as shown in Attachment A, attached hereto and incorporated herein with full force and effect.

SECTION TWO: CONFLICTS. All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION THREE: SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion of application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION FOUR: EFFECTIVE DATE. This Ordinance shall take effect immediately upon its adoption by the City Council of the City of Orange City, Florida.

ROLL CALL VOTE AS FOLLOWS: (Ordinance No. 421)

First Reading this _____ day of _____, 2010.

Jeff H. Allebach	_____	Thomas Laputka, Vice Mayor	_____
Tom Abraham	_____	Anthony Pupello	_____
Gary Blair	_____	Bill Crippen	_____
Harley Strickland, Mayor	_____		

ROLL CALL VOTE AS FOLLOWS: (Ordinance No. 421)

Second Reading this _____ day of _____, 2010.

Jeff H. Allebach	_____	Thomas Laputka, Vice Mayor	_____
Tom Abraham	_____	Anthony Pupello	_____
Gary Blair	_____	Bill Crippen	_____
Harley Strickland, Mayor	_____		

PASSED and ADOPTED this ____ day of _____, 2010.

ATTEST:

AUTHENTICATED:

Deborah J. Renner, CMC, City Clerk

Harley Strickland, Mayor

Approved as to form and legal sufficiency:

W.E. Reischmann, City Attorney

ATTACHMENT "A"

8.6.1 Schedule of Zoning District Permitted and Conditional Uses

Footnote 12 is amended and restated as follows:

¹² Recovered materials operations are limited to recoverable/recyclable material previously separated or extracted from household waste streams. Household waste is solid waste including garbage, and trash derived from households, including single and multifamily residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreational areas.

a. Types of recovered materials 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.

b. Registration and reporting requirements shall be in accordance with Chapter 62.722 of the Florida Administrative Code and all local laws and/or conditions.

c. ~~Operations must comply with DEP permit and all applicable state laws. Notwithstanding any prosecutorial action or inaction by FDEP, Orange City shall have the power to enforce the DEP permit conditions and applicable state regulations through its code enforcement processes.~~ Operations shall comply with the conditions of all required permits from any local, state or federal agency and all applicable local, state and federal laws.

Footnote 13 is amended and restated as follows:

¹³ Recovered materials operations are limited to weighing C&D debris brought to the site; separating and/or processing the waste materials; selling/transferring the recovered/recycled materials; and transporting rejected waste to an appropriate, permitted waste disposal facility.

a. 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 also includes rocks, soils, tree remains, trees and other vegetative matter which normally results from land clearing or land development operations for a construction project.

b. Operations 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.

c. ~~Operations must comply with DEP permit and all applicable state laws. Notwithstanding any prosecutorial action or inaction by FDEP, Orange City shall have the power to enforce the DEP permit conditions and applicable state regulations through its code enforcement processes.~~ Operations shall comply with the conditions of all required permits from any local, state or federal agency and all applicable local, state and federal laws.



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: June 2, 2010

To: Chairman DeSilva and members of the Planning Commission

Prepared by Jim Kerr, City Planner *JKK*

Reviewed by Elaine Wilson, Interim Development Services Director *ew*

SUBJECT: STAFF REQUEST AND RECOMMENDATION FOR A TEXT CHANGE TO AMEND SECTION 8.6.1 OF THE CITY'S LAND DEVELOPMENT CODE VIA ORDINANCE NO. 421

DEVELOPMENT SERVICES RECOMMENDATION

The City's Development Services department is requesting and recommending a text change in Section 8.6.1 of the City's land development code. The intent of the proposed text change is to amend the footnotes for recycling uses to be conducted via the processing and approval of a planned unit development (PUD). Therefore, based on competent substantial evidence presented, staff requests the Planning Commission to consider a recommendation that City Council approve the text change by stating a motion as follows:

The Planning Commission recommends that the City Council of the City of Orange City adopt Ordinance No. 421, therein amending the City's land development code as proposed in Attachment A, thereby amending the processing of household and construction and demolition (C&D) recycling.

BACKGROUND

Orange City's land development code (Appendix A) was adopted by Council on August 13, 2003, via Ordinance No. 157. In the past few years, City staff has recommended several text changes in order to streamline the City's development review process. As a result, City staff has used this amended (and refined) process to review numerous developments, some of which were processed in-house by staff, and some which were forwarded and presented to either the Planning Commission or the City Council for approval. All planned unit developments consist of zoning changes on property which directly relates to a change to the zoning map.

In this case, the subject of this amendment is a recommended change to the text of the land development code, and not the zoning map. The purpose of the text amendment is to amend the requirements for recycling activities. The Planning Commission will also be

reviewing a rezoning request from the GEL Corporation to conduct household and construction and demolition (C&D) recycling on the GEL property located in the northeast quadrant of Rhode Island and Leavitt Avenue. It is important to note that the proposed activities at the GEL site are not the subject of this report. However, in order to process GEL's recycling activity, or any recycling usage, it is necessary to amend the land development code to list "recycling activities" as an allowable use in Section 8.6.1 (Schedule of Zoning District Permitted and Conditional Uses). Ordinance No. 367 was approved and adopted by Council on January 13, 2009, wherein recycling activities were added to the land development code as a permitted use. This second amendment will modify the language slightly as a result of the settlement agreement with GEL Corporation.

The Development Services staff, the City Attorney, and two City consultants have worked together closely to formulate the attached zoning text amendment, which is being forwarded to the Planning Commission. This text amendment contains several definitions and criteria for recycling activities, as noted in Attachment "A." It is important to note that this text amendment is consistent with the requirements of the Florida Department of Environmental Regulations (FDER).

Planning Commission Consideration

When reviewing a request for a text change, Section 3.5.2 F of the City's Land Development Code requires the Planning Commission to consider the following.

1. Whether the change is consistent with all adopted elements of the Comprehensive Plan and other laws and ordinances.

Staff maintains that it does not appear there is any inconsistency between the proposed text change and any comprehensive plan element or any other law or ordinance.

2. Whether the change would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, as well as compatibility with existing and proposed land uses and an orderly and compatible land use pattern.

Staff maintains that no incompatible land uses will be created by the proposed uses listed in this amendment.

3. Whether the change is in the public interest or would benefit only the applicant.

Staff maintains the text changes would benefit the public interest by providing private onsite activities to process the recycled materials obtained from the Orange City citizenry through the regular weekly pickup of solid waste.

4. The zoning change impact upon the environment and natural resources.

Staff anticipates the City's environment and natural resources will not be adversely affected by the text changes.

5. The zoning change impact upon the economy of the effected area.
Staff maintains that the economy of the City will not be adversely affected by the text changes. Staff anticipates the economy of the City will be positively affected by the new jobs being created by a recycling activity.
6. Whether the applicant has demonstrated that the zoning change in policy would not cause inadequacies in the level of service for transportation systems, potable water and wastewater systems, drainage, solid waste, parks and recreation facilities.

Staff maintains the level of services will not be adversely affected by the text changes. Staff further maintains there will be a reduction in solid waste being deposited in the County landfill because of the amount of materials being recycled.

7. Any changes in circumstances or conditions affecting the area.
Staff maintains that any changes in circumstances or conditions will not be adversely affected by the text changes.

8. The changes impact upon the use or value of the affected area.
Staff anticipates the use or value of the affected area (Orange City) will not be adversely affected by the text changes.

9. The changes impact upon the public health, welfare, safety or morals.
Staff maintains the City's public health, welfare, safety or morals will not be adversely affected by the text changes.

10. Other matters that may be deemed appropriate to preserve consistency with the Comprehensive Plan, the general intent of this Code and its enabling legislation.

Staff maintains that it is not anticipated that there are any other matters that will cause any adverse impacts to preserving consistency with the comprehensive plan, or the intent of the land development code.

SUMMARY

City staff is herein requesting that the proposed text changes be reviewed and considered by the Planning Commission with the intent that the Commission will submit a recommendation to City Council to approve the proposed text changes to Section 8.6.1 of the City's land development code.

b. Registration and reporting requirements shall be in accordance with Chapter 62.722 of the Florida Administrative Code and all local laws and/or conditions.

c. Operations must comply with DEP permit and all applicable state laws. Notwithstanding any prosecutorial action or inaction by FDEP, Orange City shall have the power to enforce the DEP permit conditions and applicable state regulations through its code enforcement processes.

¹³ Recovered materials operations are limited to weighing C&D debris brought to the site; separating and/or processing the waste materials; selling/transferring the recovered/recycled materials; and transporting rejected waste to an appropriate, permitted waste disposal facility.

a. 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 also includes rocks, soils, tree remains, trees and other vegetative matter which normally results from land clearing or land development operations for a construction project.

b. Operations 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.

c. Operations must comply with DEP permit and all applicable state laws. Notwithstanding any prosecutorial action or inaction by FDEP, Orange City shall have the power to enforce the DEP permit conditions and applicable state regulations through its code enforcement processes.

Add the following to Section 2 Definitions of the land development code.

Recovered materials means metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal. Recovered materials as described above are not solid waste.

Recovered materials processing facility means a facility engaged solely in the storage, processing, resale, or reuse of recovered materials. Such a facility is not a solid waste management facility if it meets the conditions of Section 403.7045(1)(f), Florida Statutes.

Recyclable material means those materials which are capable of being recycled and which would otherwise be processed or disposed of as solid waste.

8.6.1 Schedule of Zoning District Permitted and Conditional Uses

	RR	R-1	R-2	R-3	MH-1	OT	MX-1	MX-2	CG-1	CG-2	I-1	I-2	PUD
A recovered materials processing facility for the receiving and processing (recycling) of non-hazardous household waste characterized as recoverable material and not inclusive of solid waste subject to permit from the Florida Department of Environmental Protection (FDEP).													****12
A recovered materials processing facility for the receiving and processing (recycling) of construction and demolition (C&D) debris (waste materials) (recyclables) subject to a permit from the Florida Department of Environmental Protection (FDEP).													****13

**** Refer to the PUD process and requirements in Section 8.6.16 and Section 8.7.22.

¹² Recovered materials operations are limited to recoverable/recyclable material previously separated or extracted from household waste streams. Household waste is solid waste including garbage, and trash derived from households, including single and multifamily residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreational areas.

- a. Types of recovered materials 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.

1 **MINUTES OF THE ORANGE CITY PLANNING COMMISSION MEETING**, held on
2 Wednesday, June 2, 2010, at 7:00 p.m. in Council Chambers, 201 N. Holly Avenue, Orange City,
3 Florida.

4
5 **1. CALL TO ORDER:**

6
7 The meeting was called to order at 7:00 p.m. by Chairman DeSilva and roll call was taken.
8

9 **2. ROLL CALL:**

10
11 **PRESENT:** Chairman Paul DeSilva; Vice Chairman Ben Franklin; Commissioners: Frank Wilson,
12 Henry Durica, David Seaman, and Michelle Polgar; Staff Members: Jim Kerr, City
13 Planner; Wendy Hickey, Planning and Zoning Analyst
14

15 **ABSENT:** Christopher Weldon
16

17 **3. APPROVAL OF MINUTES:** May 5, 2010, and May 19, 2010
18

19 **Commissioner Wilson moved to approve the minutes of May 5, and**
20 **May 19, 2010, seconded by Commissioner Franklin and approved by**
21 **6/0 voice vote of the Commission.**
22

23 **PUBLIC HEARING:**

- 24
25 **4. Review and consideration** for the purpose to consider an administrative recommendation to City
26 Council to amend Chapter 8, Section 8.6.1 schedule of Zoning District Permitted and Conditional
27 Uses to modify the text allowing recycling uses within the PUD zoning district.
28

29 Mr. Darren Elkind, Attorney for GEL Corporation, administered an oath to those wishing to speak
30 during the public hearing.
31

32 Jim Kerr, City Planner came forward and stated that this item is to amend Section 8.6.1 of the Land
33 Development Code (LDC). The proposed change would strike the current language in Footnotes 12 and
34 13 c. and replace it with the following statement: "Operations shall comply with the conditions of all
35 required permits from any local, state or federal agency and all applicable local, state and federal laws."
36 He advised that the Planning Commission will be tasked with making a recommendation to the City
37 Council. Mr. Kerr noted that this portion of the code was amended by the City Council last year. He
38 advised that this proposed amendment affects only footnotes 12 and 13. The proposed changes have
39 been mutually agreed upon by Orange City and GEL Corporation.
40

41 Mr. Kerr advised that staff has considered this change in regard to all of the requirements contained in
42 the code and finds that the changes do meet the requirements contained therein. He stated that staff
43 recommends that the Planning Commission make a positive recommendation to the City Council to
44 approve the proposed amendment to modify the recycling requirements. Mr. Kerr noted that staff was
45 present along with Attorney Allen Watts, representing Orange City, to address any questions. In
46 addition, Darren Elkind, Attorney for GEL Corporation and Geno Evans, owner of GEL Corp. are also
47 present.

1 Commissioner Seaman questioned why this amendment is necessary. Mr. Kerr responded that the City
2 felt that the State was not adequately enforcing their requirements and the proposed language made the
3 City “feel more comfortable.” Commissioner Seaman again questioned the value of the new language.
4 He noted that the change affects not only GEL Corp., but any similar operation which may begin in the
5 City. He said that he does not see the change as a benefit to the City.

6
7 Allen Watts, Special Counsel to Orange City, responded by stating that his instructions were to bring the
8 City to this point. He advised that the language being amended tonight was added to this section last
9 year. It is being removed at this time because it was objectionable to GEL. GEL Corp. felt that the
10 language added at that time singled them out for a special remedy of code enforcement. Mr. Watts
11 stated that the language being presented tonight is “fully protective of the City’s interest” and he is
12 recommending that the change be adopted. Commissioner Seaman questioned whether the proposed
13 change weakens the City’s code enforcement authority in this case anymore than in regard to any other
14 type of business. Mr. Watts responded, “No more than in any other case.” He explained that GEL felt
15 that if they agreed to a provision that expressly provided for code enforcement in their business, they
16 were subject to some greater threat than other businesses in the City. Mr. Watts noted that the Circuit
17 Court did affirm previous code violations that the magistrate had determined. The case is being held in
18 abeyance by the Court of Appeals pending the outcome of the settlement agreement. Commissioner
19 Seaman asked for confirmation that the City would have the authority to initiate a code enforcement
20 action in response to a violation at the GEL facility. Mr. Watts responded, “Absolutely.”

21
22 Commissioner Franklin said that he does not see anything wrong with the proposed language; however,
23 he did feel that it may be in response to an individual case rather than for the City’s good as a whole. He
24 said that he did not object to the change as long as it did not diminish the City’s authority. Mr. Watts
25 responded, “What Mr. Elkind told me was that GEL wanted to be treated like anyone else rather than
26 have a special provision in that footnote.”

27
28 In response to a question from Commissioner Polgar, Mr. Watts clarified that the previous language was
29 added when the zoning matrix was modified last year to include recycling activities. Commissioner
30 Polgar asked whether the section was being returned to its original form. Mr. Watts responded in the
31 negative, noting that previously, recycling activities was not allowed anywhere in the City. He stated,
32 “We’ve added a way in which GEL can legalize their operation.” He reiterated that the change tonight
33 only treats GEL the same as any other business in the City with regard to enforcement.

34
35 Commissioner Durica questioned whether GEL Corporation is “self-monitoring.” He specifically
36 referenced a requirement to have a safety plan on file and asked whether this had been done. Mr. Watts
37 responded that the City has the right to inspect the premises as it does with any other business. Mr. Kerr
38 noted that these types of questions would be more appropriate during the public hearing on the following
39 item. Mr. Watts concurred and advised that the matter currently under discussion is “Step 1” in the
40 process.

41
42 Chairman DeSilva closed the public hearing.

43
44 **Commissioner Polgar moved that the Planning Commission**
45 **recommend that the City Council adopt Ordinance No. 421 therein**
46 **amending the City’s Land Development Code as proposed in**
47 **Attachment “A” thereby amending the processing of household and**

1 **construction and demolition (C&D) recycling, seconded by**
2 **Commissioner Seaman.**

3
4 Commissioner Seaman stated that he wanted to “make perfectly clear” that the proposed change does
5 not preclude any code enforcement activity at GEL any more than anywhere else in the City. Mr. Watts
6 said that it did not.

7
8 Chairman DeSilva reopened the public hearing.

9
10 Attorney Darren Elkind, 505 Deltona Blvd., came forward and advised that his client wishes to be
11 treated the same as any other corporate or individual citizen in the City. He said that is the basis for the
12 issue at this time.

13
14 Chairman DeSilva asked Mr. Watts if there is any harm done to the City by the proposed action. Mr.
15 Watts responded, “No, sir.” He advised that if a violation were alleged, GEL, or any other business,
16 would receive a “Notice to Correct” prior to the initiation of any code enforcement action. Chairman
17 DeSilva asked whether other cities require recycling plants to submit PUDs. Mr. Watts responded, “I
18 think recycling plants in other cities are largely neglected.” He noted that this operation began as a
19 C&D Landfill and is currently in the midst of a five-year closure plan.

20
21 **Motion passed by unanimous 6/0 roll call vote of the Commission.**

- 22
23 **5. Review and consideration** for the purpose to consider a recommendation to City Council
24 regarding a request from Milton Evans Jr. (d.b.a. GEL Corporation) for approval of the Master
25 Development Plan and Rezoning from (I-2) Heavy Industrial to (I-PUD) Industrial Planned Unit
26 Development on property consisting of 33.81 acres located within the northeast quadrant of Rhode
27 Island Avenue and Leavitt Avenue, consisting of Lots 1 through 19 and Lots 41 through 50, Block
28 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;
29 within the Vineland Park Subdivision, Map Book 21, Page 85, and including the street rights-of-
30 way contained therein between said blocks.

31
32 Mr. Kerr noted that the subject property is located at the corner of Rhode Island and Leavitt Avenues.
33 He said that currently the property is zoned I-2 and the surrounding properties are I-1. Mr. Kerr
34 provided a power point presentation, noting the location on a map. He said that staff is required to
35 review the application to ensure that it is consistent with the requirements in the code. He stated that has
36 been done and it has been deemed consistent. Mr. Kerr advised that staff recommends that the Planning
37 Commission recommend City Council adoption of the rezoning ordinance.

38
39 In response to comments from Commissioner Seaman, Mr. Kerr explained that the project is “an
40 Industrial PUD” which includes a Developers Agreement as part of the I-PUD rezoning process.
41 Commissioner Seaman stated that he thought the project had already been approved and transmitted to
42 Council. Mr. Kerr concurred that there was a recommendation for approval last November. However,
43 staff felt that since the Commission had to review the proposed change to the LDC, staff felt that the
44 PUD should be reviewed again at the same time. He said that the site plan would also be brought back
45 to the Commission in July.

46
47 Mr. Kerr stated that staff is recommending that the Planning Commission render a positive

1 recommendation for the City Council to adopt the ordinance rezoning the GEL property to I-PUD
2 subject to approval of the site plan which will be presented at the next meeting.

3
4 Commissioner Durica again asked his question regarding safety and having a plan to respond in the
5 event of a fire during hours when the facility is closed. He questioned who watches over the operation
6 at night and who would provide notification in the event of an incident on the site after hours. Mr.
7 Elkind said that the facility is equipped with “very expensive” security cameras which are monitored by
8 a security company. Commissioner Durica clarified that his concern is for the safety of people in the
9 surrounding neighborhoods. Commissioner Durica asked what the hours of operation are at GEL. Mr.
10 Elkind responded that it is open from 7 a.m. to 5 p.m. Commissioner Durica referenced the
11 requirement that the operation not impact the health, safety and welfare of the surrounding community.
12 He questioned whether there were any hazards present in the operation that the City should be aware of.
13 Mr. Kerr responded that no adverse effects are anticipated. Mr. Elkind noted that the PUD clearly spells
14 out the allowed parameters for the operation of the business to protect the interests of all of the involved
15 parties. He stated that having such a contract in place is beneficial to the health, safety and welfare of
16 the community.

17
18 In regard to the Developers Agreement, Mr. Watts stated that he was “holding it in escrow.”
19 Commissioner Seaman expressed his support for the proposed project, stating that he would much rather
20 see a recycling operation on the site than a landfill. Commissioner Wilson concurred. Commissioner
21 Franklin asked whether there would be a requirement that only materials from Orange City be accepted
22 at the facility or if the materials could come from anywhere. Mr. Kerr responded that the materials
23 could be from anywhere in the Southwest Volusia area. Mr. Watts noted that GEL operates a similar
24 facility at the Tomoka Landfill.

25
26 Commissioner Polgar asked what type of landscaping would be installed at the facility. Mr. Kerr
27 responded that those details would be presented when the site plan is considered. He said that trees
28 would be used to create a visual screen around the perimeter of the wall. In addition, there will be some
29 trees in the parking area. Mr. Watts noted that the steps involved in this approval have been presented
30 in a somewhat different order than usual. He said that normally, the rezoning would be done first, based
31 on a conceptual site plan and then site plan review and approval. In this case, the site plan was made the
32 final exhibit to the PUD agreement therefore, the PUD would not become effective until the site plan is
33 approved.

34
35 Chairman DeSilva questioned how GEL’s compliance with the types of materials allowed into the
36 facility would be monitored. Mr. Kerr responded that the City would not “be inspecting every truck that
37 comes in.” He said that is the responsibility of Mr. Evans. Mr. Elkind noted that within the
38 Development Agreement on page 3, provisions for extra inspections exist that the City requested and
39 that GEL agreed to. He explained why it is in GEL’s best interest to comply with the requirements.

40
41 There being no further requests to speak, Chairman DeSilva closed the public hearing.

42
43 **Commissioner Seaman moved that the Planning Commission**
44 **recommend City Council approval of Ordinance No. 422 subject to**
45 **approval of the site plan to be submitted at a later date, thereby**
46 **rezoning the 33.8 acre GEL Corporation property from I-2 Heavy**
47 **Industrial to I-PUD, Industrial Planned Unit Development, said**

1 **property located within the northeast quadrant of Rhode Island**
2 **Avenue and Leavitt Avenue, consisting of Lots 1-19 and Lots 41**
3 **through 50, Block 1; Lots 1 through 18 and Lots 39 through 48, Block**
4 **2; and all of Blocks 3, 4, 5, 6, 7, 8, 9, and 10; within the Vineland Park**
5 **Subdivision, Map Book 21, Page 85, and including the street rights-of-**
6 **way contained therein between said blocks, seconded by**
7 **Commissioner Wilson and passed by unanimous 6/0 roll call vote of**
8 **the Commission.**
9

10 **6. STAFF COMMENTS**

11
12 Ms. Hickey noted that two months ago, the Commission approved the DAV's request for a conditional
13 use with stipulations to that approval. The DAV has since filed an appeal to the City Council regarding
14 those stipulations. The appeal will be heard by the City Council on June 22nd. Each member of the
15 Planning Commission will receive a notice of the public hearing. Ms. Hickey stated that the appeal was
16 in regard to the fence and parking requirements. Commissioner Durica questioned whether the people
17 who spoke at that meeting would be informed of the date for the appeal and public hearing. Ms. Hickey
18 responded in the affirmative.

19
20 Mr. Kerr advised that the GEL site plan would be coming forward on July 7th.

21
22 Chairman DeSilva asked what Council's options are in response to the appeal. Ms. Hickey responded
23 that they could maintain the recommendation of the Commission, or they could change the approval.
24 She stated, "They can pretty much do anything they want with it." Commissioner Polgar asked whether
25 minutes of that Planning Commission meeting would be included in Council's packet. Ms. Hickey
26 responded in the affirmative.

27 28 **7. COMMISSION COMMENTS**

29
30 Commissioner Polgar questioned whether the Planning Commission meetings could be moved to a
31 starting time of 6:00 p.m. Commissioner Franklin responded that he works in Ormond Beach and
32 doesn't get off work until 6:00. Commissioner Seaman said that it could be a problem for him to get
33 there at that time as well. Commissioner Durica suggested that Council should not move their meeting
34 to an earlier start time as it could deter people who work from running for office. Commissioner Polgar
35 said that some of the current Council Members can't make the 4:30 start time.

36
37 Ms. Hickey noted that the Florida Planning and Zoning Association will be holding Planning
38 Commission training on a Saturday morning. Orange City will be hosting the training. Commissioner
39 Polgar said that she might possibly be interested in attending.

40
41 Chairman DeSilva thanked staff and stated, "It is always nice to see a situation where we avoid
42 litigation. Especially costly litigation.

43 44 **8. ADJOURNMENT**

45
46 There being no further business, Chair DeSilva adjourned the meeting at 8:04 p.m.
47

1 **RESPECTFULLY SUBMITTED:**

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3

4

5 Deborah J. Renner, CMC

6 City Clerk

APPROVED ON
