

ORDINANCE NO. 365

AN ORDINANCE OF THE CITY OF ORANGE CITY, FLORIDA, AMENDING SECTION 8.3 OF THE CITY'S LAND DEVELOPMENT CODE, SAID SECTION BEING THE OFFICIAL ZONING MAP OF THE CITY OF ORANGE CITY, FLORIDA; SAID AMENDMENT CHANGING THE ZONING CLASSIFICATION OF THE GEL CORPORATION PROPERTY, CONSISTING OF APPROXIMATELY 33.8 ACRES OF PROPERTY GENERALLY LOCATED WITHIN THE NORTHEAST QUADRANT OF RHODE ISLAND AVENUE AND LEAVITT AVENUE; FROM ITS PRESENT ZONING CLASSIFICATION OF (I-2) HEAVY INDUSTRIAL TO (I-PUD) INDUSTRIAL PLANNED UNIT DEVELOPMENT; CONTAINING A REPEALER PROVISION, A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Milton Evans Jr. (dba Gel Corporation) is the owner of certain real property generally located within the northeast quadrant of Rhode Island Avenue and Leavitt Avenue, containing approximately 33.8 acres, and

WHEREAS, the City Council annexed said property into the City of Orange City in 1984, and

WHEREAS, responding to the property owner's request for a rezoning, the City desires to change the zoning classification of said property from (I-2) Heavy Industrial to (I-PUD) Industrial Planned Unit Development; and

WHEREAS, on November 5, 2008, the Planning Commission of the City of Orange City, Florida, conducted a public hearing to review and consider the rezoning, and forwarded a recommendation of approval to the City Council, and

WHEREAS, the City Council finds such rezoning consistent with the City's Comprehensive Plan and deems it in the best interest of the inhabitants of said City to amend aforesaid Revised Official Zoning Map as hereinafter set forth:

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

SECTION 1. That Section 8.3 of the Land Development Code of the City of Orange City, said section being the official zoning map of the City of Orange City, Florida, is hereby amended, and a certain property located within the northeast quadrant of Rhode Island Avenue and Leavitt Avenue, containing approximately 33.8 acres, is hereby changed and transferred from its present zoning classification of (I-2) Heavy Industrial to (I-PUD) Industrial Planned Unit Development. Said properties are more particularly described in the Attachment "A" Legal Descriptions.

A copy of the amendment to the Zoning Map is attached hereto and included as Exhibit A, and such amendment is hereby adopted pursuant to the City's Code of Ordinances.

SECTION 2. CONFLICTS: All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed, as well as any portion of the Official Zoning Map of the City of Orange City, Florida, in conflict herewith.

SECTION 3. SEVERABILITY: If any section, part of a section, paragraph, clause, phrase or word of this ordinance is declared invalid, the remaining provisions of this ordinance shall not be affected.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect upon adoption by the City Council of the City of Orange City, Florida, *the signing & recordation of a Developer's Agreement within sixty days.*

ROLL CALL VOTE AS FOLLOWS (Ordinance No. 365):

First Reading this 10th day of February, 2009.

Jim Mahoney	<u>yes</u>	Donald C. Sherrill	<u>yes</u>
Tom Laputka	<u>yes</u>	Tom Abraham	<u>yes</u>
Donald Sandford	<u>Absent</u>	Jeff H. Allebach, Vice Mayor	<u>no</u>
Harley Strickland, Mayor	<u>yes</u>		

Amended on floor 2/24/09

ROLL CALL VOTE AS FOLLOWS (Ordinance No. 365):

Second Reading this 24th day of February, 2009.

Jim Mahoney	<u>yes</u>	Donald C. Sherrill	<u>yes</u>
Tom Laputka	<u>yes</u>	Tom Abraham	<u>yes</u>
Donald Sandford	<u>Absent</u>	Jeff H. Allebach, Vice Mayor	<u>no</u>
Harley Strickland, Mayor	<u>yes</u>		

PASSED and ADOPTED ^{as amended} this 24th day of February, 2009.

ATTEST:
Deborah J. Renner
Deborah J. Renner, CMC, City Clerk

AUTHENTICATED:
Harley Strickland
Harley Strickland, Mayor

Approved as to form and legal sufficiency:
William E. Reischmann, Jr.
William E. Reischmann, Jr., City Attorney

Attachment A

Ordinance No. 365

Legal Description

GEL Corporation Rezoning

Parcel Nos. 8012-00-00-0232, 8012-00-00-0233, 8012-00-00-0234, 8012-00-00-0235, 8012-00-00-0236, 8012-00-00-0237, 8012-00-00-0238, 8012-00-00-0239, 8012-00-00-0241, 8012-00-00-0242, 8012-00-00-0243

A parcel of land lying in the South 1/2 of the Southwest 1/4 of Section 12, Township 18 South, Range 30 East, Volusia County, Florida, being more particularly described as follows:

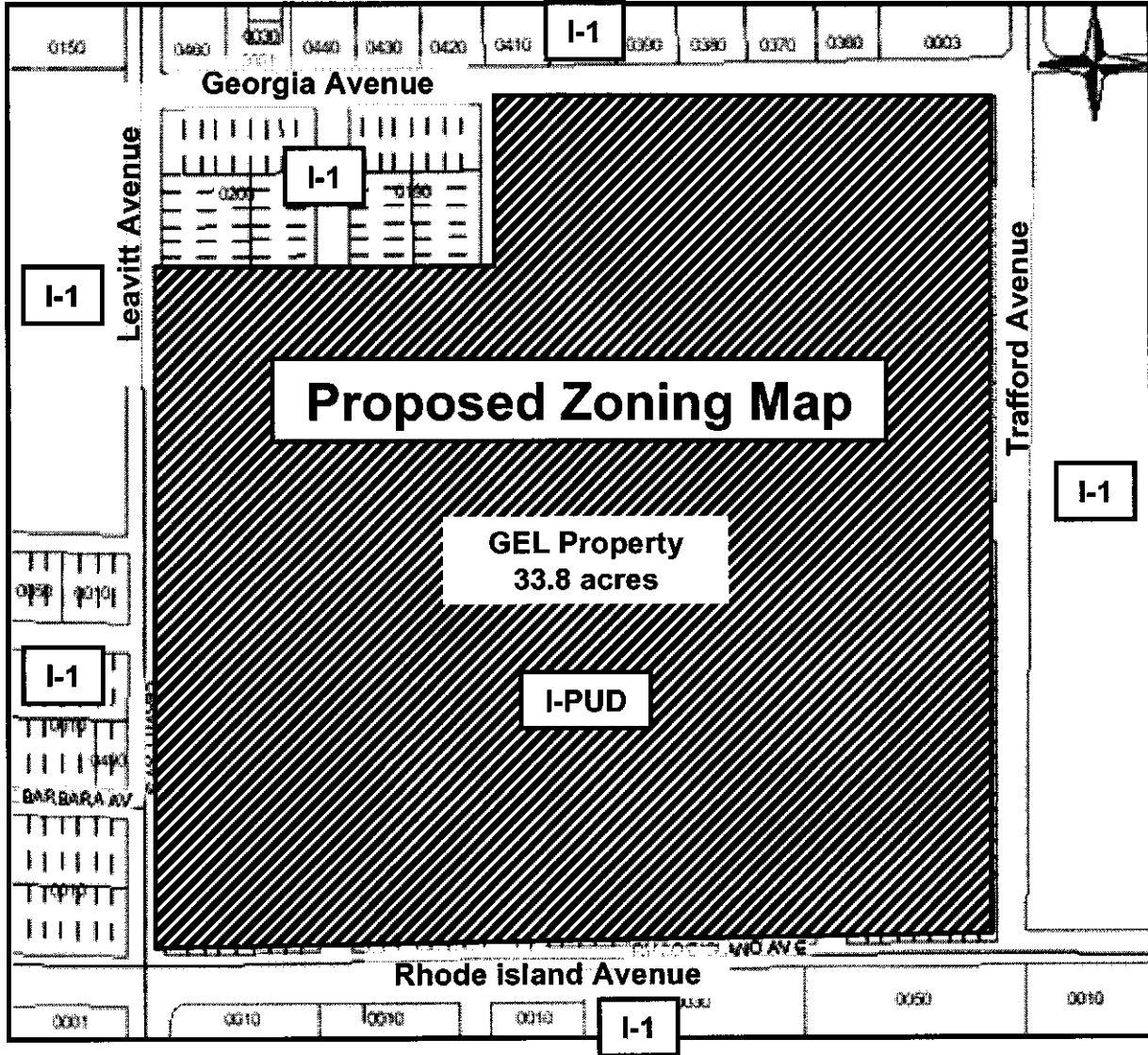
Commencing at the Southeast corner of the Southwest one-quarter of said Section 12, being a Boundary corner of Oakhurst Golf Estates as recorded in Plat Book 51, Page 59 of the Public Records of Volusia County, Florida: Thence South 89°10'58" West along the South line of said Oakhurst Golf Estates and the South line of the Southwest one-quarter of said Section 12 a distance of 250.00 feet to a Boundary corner of said Oakhurst Golf Estates and the Point of Beginning. Thence continue South 89°10'58" West along said South line a distance 2164.50 feet to the Easterly Right-of-Way of Veterans Memorial Parkway; Thence North 00°06'09" West along said East line a distance of 780.91 feet to a point of curvature of a curve concave Easterly having a Radius of 1840.00 feet and a Central Angle of 17°12'47"; thence Northerly along said East line and the arc of said curve a distance of 552.78 feet to a point on the North line of the South one-half of the Southwest one-quarter of said Section 12; Thence South 89°34'36" along said North line a distance of 1333.80 feet to the Boundary of the aforementioned Oakhurst Golf Estates; Thence South 34°10'24" East along said Boundary a distance of 1335.35'; Thence South 00°00'38" East along said Boundary a distance of 200.00 feet to the Point of Beginning.

Subject to existing easements, rights-of-way, covenants, reservations and restrictions, if any.

Said lands lying and situate in Volusia County, Florida and contain 55.60 Acres more or less.

Exhibit A Ordinance No. 365

Zoning Map for GEL Property





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 *JHK*

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

Staff Recommendation

The Technical Review Committee has reviewed the GEL Corporation I-PUD Industrial Planned Unit Development and finds that the I-PUD rezoning application meets 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 property rezoning application as follows:

The Planning Commission recommends that the City Council approve Ordinance No. 365, thereby rezoning the 33.8 acre GEL Corporation property, from (I-2) Heavy Industrial to (I-PUD) Industrial Planned Unit Development, said property 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.

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 along with this request for a rezoning.

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 application to rezone the property to I-PUD, along with a preliminary master development plan and site plan to construct an office building as part of the existing recycling facility. This report will deal only with the property rezoning.

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 Sections 8.6.16 and 8.7.22 of the City's land development code, including unified control, the preliminary master development plan, development agreement, and the property rezoning. The TRC recommended that the GEL I-PUD rezoning be approved.

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.

REQUIREMENTS FOR THE R-PUD PLANNED UNIT DEVELOPMENT

The City's land development code requires that the Planning Commission hold a public hearing on the preliminary master development plan and rezoning after due public notice and consider the application with respect to the items found in Section 8.6.16 and 8.7.22, of which, the following is a compilation of that information.

8.6.16.A Intent and Purposes to be Accomplished

Section 8.6.16.A states as follows:

“The planned unit development (PUD) district is intended to provide a flexible approach for unique and innovative land development proposals, which would otherwise not be permitted by this Code. Notwithstanding the specific criteria identified herein, PUD proposals shall be consistent with the comprehensive plan and should accomplish the following purposes, to the greatest extent possible.”

Planning staff has reviewed the purposes to be accomplished, and finds that the GEL Corporation (I-PUD) Industrial Planned Unit Development application is consistent with the comprehensive plan, and the application appears to accomplish the purposes listed in Section 8.6.16, 1 through 7 of the City's land development code. The applicant has endeavored to create an orderly development consisting of 12.5 acres of household and C&D recycling activity (and a 21.3 acre inactive (closed) solid waste landfill) with a “visually attractive physical environment through the coordination and consistency of architectural styles, landscaping designs, and appropriate buffer areas between land uses”.

8.6.16.B.1 - Allowable Uses

Section 8.6.16.B.3 states as follows:

“The permitted uses within an IPUD may be those found in any of the industrial zoning districts, provided that said uses are listed in the development agreement and have been approved by the city council.”

Planning staff has reviewed the GEL Corporation (I-PUD) Industrial Planned Unit Development and finds that the proposed usage is consistent with the City's Industrial zoning districts subject to the zoning matrix amendment approval by the City Council. The proposed onsite uses include the processing of household and C&D recycling items, the onsite storing and shipping of the recycled materials, employee parking and drainage retention facilities.

8.6.16.C.1 - Minimum Area

This Section requires the following.

To qualify as an I-PUD, a development shall require a minimum of one-acre of land.

The property, on which the GEL (I-PUD) Industrial Planned Unit Development will be developed, is 33.8 acres, of which the recycling activity is limited to 12.5 acres, thereby meeting and exceeding this requirement.

8.6.16.E - Landscape Buffer Requirements

This Section states as follows.

Landscape buffers shall comply with the requirements of Chapter 10 of this Code.

The proposed landscape buffers meet the minimum requirements of Section 10 of the City's land development code, in that, a minimum 20-foot landscape buffer is provided on Leavitt Avenue and Rhode Island Avenue, and 10-foot buffer on the north and east property lines.

8.6.16.F - Off Street Parking

The applicant has stated there will be 38 employees onsite. The project requires one parking space per each employee, for which the site plan indicates that 38 parking spaces will be provided as required.

8.6.16.G - Transportation Impact Analysis

This Section states as follows.

A transportation impact analysis report shall be required for any use which, according to the Institute of Transportation Engineers Trip Generation Manual, latest edition, rates published by the Florida Department of Transportation or rates documented by study and agreed to prior to use by the DSD, will generate in excess of 1000 trips per day. The contents of the transportation impact analysis report shall meet the requirements of Chapter 4.

The analysis of the preliminary master development plan indicates 228 vehicle trips per day for the project. Sufficient capacity exists to meet the traffic demands of the development. Access to the development will occur solely from Leavitt Avenue. However, actual traffic counts done at random indicate much lower vehicle trips at the facility.

8.7.22 A and 8.7.22.A.6.a - Evidence of Unified Control

Section 8.7.22 A states as follows.

All land included for purpose of development as a PUD shall be under the legal control of the applicant, whether that applicant be an individual, partnership or corporation or group of individuals, partnerships or corporations. Applicants requesting approval of a PUD shall present firm evidence of unified control of the entire area within the proposed PUD together with a certificate of apparent ownership and encumbrance with the opinion of counsel representing the developer establishing that the developer has the unrestricted right to impose all of the covenants and conditions upon the land as are contemplated by the provisions of these regulations.

Section 8.7.22.A.6.a states as follows:

Firm evidence of unified control of the entire area within the proposed PUD, including a certificate of apparent ownership and encumbrance with the opinion of counsel representing the applicant establishing that the applicant has the unrestricted right to impose all of

the covenants and conditions upon the land as are contemplated by the provisions of these regulations.

The adequacy of evidence of unified control has been provided as required, and the GEL Corporation (I-PUD) Industrial Planned Unit Development possesses adequate unified control.

8.7.22 C - Open Space

This Section states as follows.

There shall be a minimum common open space requirement of 30 percent of the total gross acreage of the PUD. Common open space shall include active and passive recreation areas, with residents having physical access to the space, such as playgrounds, golf course, waterways, floodplains, nature trails and other similar open spaces. Passive facilities such as picnic tables and nature trails shall be placed in a manner that functions with the site's natural amenities or recreational needs of future residents. Examples of active recreational common space are playgrounds; free play areas, golf courses, swimming pools, and tennis courts. Open water bodies beyond the perimeter of the site; fenced retention areas; yards and spacing between buildings and street rights-of-way, driveways and parking areas shall not be included in determining the amount of common open space. Provisions for maintenance of the common open space shall be provided in the development agreement. Land designated as common open space shall be dedicated by plat, deed or other appropriate legal instrument satisfactory to the City Attorney and usable by all residents of the PUD. Such instrument shall be binding upon the developer, its successors and assigns, and shall constitute a covenant running with the land and be in recordable form.

The common open space requirement has been provided as required. Planning staff has reviewed the open space requirement, and finds that the project possesses adequate open space. The property owner will be responsible for the maintenance and conservation of the open space. The proposed I-PUD open space meets and exceeds the minimum 30 percent open space requirements as illustrated in Table 1.

Table 1 - Open Space Calculation

	Square feet	Acres	Percentage
Required Open Space (Minimum)	441,832	10.14	30.0
Landscaping (Open Space)	52,300	1.201	3.8
Landscaping (10% of driveway/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 Open Space	1,141,845	26.213	77.5

8.7.22 D - Underground Utilities

This Section states as follows.

Within a PUD, all utility distribution lines, including telephone, television cable and electrical systems, shall be installed underground. However, appurtenances to said utilities requiring above ground installation may be exempted by the City Council.

The I-PUD master plan, development agreement and the site plan states that all utilities will be installed underground.

8.7.22 E.1 through 4 - Procedure for rezoning to PUD

The required preapplication meeting occurred, including a sketch plan. An application for rezoning to an I-PUD was submitted, together with a preliminary master development plan, which will be forwarded to the City Council for consideration of approval.

8.7.22.E.5.a through e – Plan exhibits

Section 8.7.22.E.5 a through e are either described or indicated on the preliminary master development plan as required, including; name of project; legal description; topography; etc.

8.7.22.E.5.f - Traffic Access

This Section states as follows.

“Conceptual configuration of proposed streets, which depict access into and traffic flow within the development, with particular reference to the separation of vehicular traffic from pedestrian or other types of traffic.”

Traffic accessing the proposed recycling facility will be entirely from Leavitt Avenue. The property is strategically located next to this street, which is classified as a major collector. Rhode Island Avenue is a minor arterial. Pedestrian traffic on these two streets are separated from the vehicular traffic through the use of sidewalks.

8.7.22.E.5.g through p – Plan exhibits

Section 8.7.22.5 g through p are either described or indicated on the master development plan as required, including water, sewer, and drainage detention locations; open space; vicinity map; soils survey, etc.

8.7.22.E.6 - Development Agreement

A draft of the development agreement required in Section 8.7.22.E.6.a through h of the land development code is attached to this report, and is currently being reviewed by planning staff and the legal department.

8.7.22.E.6.e – Maximum Building Height

The project's proposed maximum building height does not exceed the maximum height limit of 35 feet.

8.7.22.E.6.i - Phasing Schedule

Section 8.7.22.E.6.i states as follows:

When the PUD is planned for phase development, a schedule of the phases.

The single phase development is proposed to commence construction in January of 2009, and proposed to be completed in June of 2009. Construction will include the internal driveways, water and sewer, trees and landscaping, new building, and all improvements depicted on the preliminary master development plan and site plan necessary to sustain the development.

8.7.22.E.6.j - Land Use Analysis

Section 8.7.22.E.6.j states as follows:

A table showing acreage for each category of land use including roads, open space, and recreation, and a table of proposed maximum and average gross and net residential densities for residential land uses.

The above is addressed in Section 6.F of the development agreement and the preliminary master development plan as follows.

Table 2 – Residential Property Analysis

	Square feet	Acres	Percentage
Buildings	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 (Open Space)	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

Planning Commission Consideration

When reviewing a request for a zoning 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.

The goals of the future land use element are listed as follows.

Goal 1: Promote orderly growth and development in the City of Orange City in such a manner as to: (1) Protect the small community character and lifestyle of the "traditional/historic" sections of the City, and (2) Provide appropriate opportunities for commerce, employment and housing in the "emerging growth" sections of the City, consistent with the City's continuing role as a regional retail service provider.

Goal 2: Provide for a range of residential land uses and densities while continuing to emphasize detached single-family housing development.

Goal 3: Promote development of non-polluting industrial land use and an efficient pattern of commercial land use.

Goal 4: Future development shall be designed and located in a manner that protects the City's natural and historic resources.

Goal 5: Promote the retention of open space in the urban environment and the conservation of significant natural resources and in the path of growth.

Goal 6: Promote the orderly growth and development while minimizing adverse impacts and disruption associated with a variety of land uses.

Staff maintains that the proposed GEL Corporation (I-PUD) is consistent with the appropriate goals in the future land use element in the City's comprehensive plan except for Goal 2, which is obviously not applicable. Although the location of the proposed development probably does not enhance the small community character of the City, the recycling activities will be located behind a (proposed) landscaped wall, and the use does provide a necessary function for the recycling of household and C&D waste products. There does not appear to be any inconsistency between the proposed I-PUD zoning classification 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.

The surrounding land consists of either vacant and undeveloped properties, or industrial usage. The proposed zoning change does not appear to result in any zoning incompatibility. The site appears to be ideally suited for the proposed recycling development because of its close proximity to the two major arterials in Orange City, that being US 17-92 (Volusia Avenue) and Veterans Memorial Parkway, and its centralized location within the industrial zoning district.

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

The change of zoning will benefit the developer and will also be in the best interest of Orange City as a recycling facility. This development will provide a location for household and C&D recycling to be conducted for households in Orange City and southwest Volusia County.

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

It appears that the proposed zoning change will have little impacts upon the environment and the natural resources. The development has been under regulation of the Florida Department of Environmental Regulations for over 30 years.

5. The zoning change impact upon the economy of the effected area.

It appears that the proposed zoning change will have a positive impact by providing jobs for the community as well as the need to recycle household waste products from southwest Volusia County, including Orange City.

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 that the proposed zoning change will not adversely impact the level of services for transportation, and potable water and wastewater systems, drainage, and solid waste facilities. In fact, such level-of-service impacts will be less than the impacts generated by other types of industrial uses that could potentially occupy the site.

7. Any changes in circumstances or conditions affecting the area.

It is not anticipated that the proposed zoning change will incur or promote any changes in cir-

cumstances or conditions that will affect the area. The property is currently operating as a recycling facility and is expected to maintain said usage. However, the appearance of the property will be significantly improved by the addition of trees and landscaping along Leavitt and Rhode Island.

8. The changes impact upon the use or value of the affected area.

It is not anticipated that the proposed zoning change will adversely affect the use or value of the area. On the contrary, it is expected that the landscaping and wall improvements will have a positive impact on the aesthetics and appearance of this site and the surrounding area.

9. The changes impact upon the public health, welfare, safety or morals.

It is not anticipated that the proposed zoning change will adversely affect the public health, welfare, safety or morals of the area.

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.

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 this code.

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 has provided a quality development that will be an asset to the community. Staff recommends approval.

Planning Commission Responsibility

Section 3.5.2.E - The planning commission shall hold a public hearing on each application after due public notice, and forward its recommendation to the city council and to the applicant. In making its determination, the planning commission shall consider those standards as contained in section 3.5.2.F, of this chapter. It may accept, reject, modify, return or seek additional information on any application. Once the planning commission makes its recommendation, the application shall be forwarded to the city council.

Section 3.5.2.G - The city council shall hold a public hearing after due public notice on all recommendations from the planning commission. In making its determination, the city council shall consider those standards as contained in section 3.5.2.F. of this chapter. It may accept, reject, modify or return the planning commission's recommendation, or seek additional information regarding said recommendations. No approval of an amendment to the code's text or the OZM shall be made unless said amendment has an affirmative vote of a majority of those council members present. All said amendments shall be by ordinance of the city council.

Section 8.7.22.E.4 - PUD rezoning application stage. An application for rezoning to a PUD, together with a master development plan (MDP) and such application fees as established by resolution of the city council shall be submitted to the development services department. If a rezoning applicant desires concurrent review under this code, the applicant shall so state at the time of application, and shall submit any additional information required by this code. The master development plan shall consist of a preliminary plan and a written development agreement.



City of Orange City
205 E. Graves Avenue, Orange City, FL 32763
386-775-5415 Fax 386-775-5420

RECEIVED

JUN 09 2008

Planned Development Application

DEVELOPMENT SERVICES

Date Received _____

Applicant Information

Applicant's Name Milton E. Evans, Jr. Phone (386) 775-5385

Business Address 1200 S. Leavitt Avenue Fax (386) 775-0355

City Orange City State FL Zip Code 32763

Mailing Address 1200 S. Leavitt Avenue Email address gelcorp@iag.net

City Orange City State FL Zip Code 32763

Is applicant property owner? Yes No

If applicant **DOES NOT** own property, please provide the following:

Property Owner/Name _____ Phone _____

Address _____ Fax _____

City _____ State _____ Zip Code _____

Property Information

Address 1200 S. Leavitt Avenue

The subject property is located on the **N E S W** side of S. Leavitt Avenue
(circle one)

approximately 285 feet / miles from its intersection with Georgia Avenue
(circle one)

Parcel # 8011-03-01-0010 thru 8011-03-10-0010 Acres 33.81

Width 1,015' Depth 1,268'

Legal Description See attached.

This request is for a: RPUD BPUD IPUD MPUD

Property Zoning Classification Heavy Industrial (I-2)

Current Use of Property Vacant Developed Undeveloped
(check all that apply)

Residential Non-Residential Partially Developed

Proposed Use of Property (if any) Materials Recycling

Are there any easements of record on the property? Yes No

If YES, please describe _____

Notarization

Milton E Evans JR

Print Name

Print Name

Milton E Evans JR

Signature

Signature

Subscribed and sworn to (or affirmed) before me on this the 9th day of JUNE ~~2004~~ 2008 who is/are personally known to me or has/have produced FL DL as identification.

[Signature]
Signature, Notary Public

NOTARY PUBLIC-STATE OF FLORIDA
Wendy A. Hickey
Commission # DB000900
Expires: NOV 18, 2010
BONDED THROUGH PUBLIC BONDING CO., INC.
Notary Stamp

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.

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 21.3 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 12.5 acres lying in the western portion of the property; and

WHEREAS, the Owner/Developer desires to develop a 12.5 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		Exhibit "D" Site Plan	
Sheet PD-1	= Title Sheet	Sheet C-1	= Title Page
Sheet PD-2	= Site Layout	Sheet C-2	= Site Layout - North
Sheet PD-3	= North Layout	Sheet C-3	= Site Layout - South
Sheet PD-4	= South Layout	Sheet C-4	= Overall Drainage
Sheet PD-5	= Existing Topo	Sheet C-5	= Paving & Grading
Sheet SU	= Survey	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
 6 sheets		 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 (Be specific)	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

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"~~ which 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, Weiss & 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.