

ORDINANCE 94-58

01/19/1995 10:16
Instrument # 95007489
BOOK: 397B
PAGE: 720

AN ORDINANCE OF THE CITY OF DELAND, FLORIDA CHANGING THE ZONING FROM M-1, INDUSTRIAL DISTRICT, TO PD, PLANNED DEVELOPMENT DISTRICT, ON DESCRIBED PROPERTY LOCATED IN THE DELAND AIRPORT INDUSTRIAL PARK, BETWEEN LANGLEY AND RANGER, AND SARATOGA AND YORKTOWN; APPROVING A DEVELOPMENT PLAN FOR MCPHAIL INDUSTRIAL SUBDIVISION, A NON-RESIDENTIAL PLANNED DEVELOPMENT CONSISTING OF APPROXIMATELY 8.5 ACRES OF PROPERTY; DIRECTING A CHANGE IN THE COMPREHENSIVE ZONING MAP; CONDITIONING FINAL DEVELOPMENT APPROVAL ON A DETERMINATION OF CONCURRENCY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, John and Carolyn McPhail; John and Carolyn McPhail Revocable Living Trust; and McPhail Properties, Inc. (hereinafter referred to as "the Applicants") own an 8.5 acre parcel of land located in the DeLand Airport Industrial Park, between Langley and Ranger, and Saratoga and Yorktown, which is more particularly described in the legal description attached hereto as Exhibit "A" and by this reference made a part hereof; and

WHEREAS, the Applicants have applied for a change of zoning from the present zoning classification of M-1, Industrial District, to PD, Planned Development District; and

WHEREAS, said rezoning as a PD District is consistent with both the Comprehensive Plan and the purpose and intent of Section 33-32 of the Code of Ordinances of the City of DeLand ("the Code"); and

WHEREAS, the Applicants have submitted an application for approval of a development plan for McPhail Industrial Subdivision to encompass all of the property described in Exhibit "A" (hereinafter "the Property" or "the Project"); and

WHEREAS, the proposed development plan meets or exceeds the minimum conditions and standards for the Planned Development District with respect to minimum development size, perimeter setbacks, comprehensive plan consistency, internal compatibility, external compatibility, open spaces, sidewalks, environmental constraints, internal access and circulation, external transportation access, off-street parking, public facilities and unified control; and

WHEREAS, the proposed development plan is consistent with the Industrial Warehouse land use designation, which: encourages intensified development in outlying or newly developed areas for a variety of industrial or commercial needs; encourages clustering of new development to promote shared facilities and access and to discourage linear development along collector and arterial level roadways;

permits energy and cost effective delivery of services; and, requires properly designed ingress and egress to avoid undue traffic hazards or congestion;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF DELAND, FLORIDA:

Section 1. The City Commission has held a public hearing to approve the change of zoning from M-1, Industrial District, to PD, Planned Development District.

Section 2. Pursuant to the determination made at public hearing, the City Commission hereby amends the Comprehensive Zoning Map of the City to include the land described in Exhibit "A" as PD, Planned Development District.

Section 3. The zoning of the Property as PD, Planned Development District, is made pursuant to Section 33-32 of the Code and the development of the Property shall take place in accordance with that Section and in substantial compliance with the Development Plan Report, Narrative, Maps and other supporting documentation submitted by the Applicants which shall be filed and retained for public inspection in the office of the City Planning Department and constitute a supplement to the official Zoning Map of the City.

Section 4. The failure of the approved Development Plan to address a particular permit, condition, term or restriction shall not relieve the Applicants of the necessity of complying with any law governing said permitting requirements, conditions, terms or restrictions, as same may be amended or enacted from time to time in the future. All current land development regulations of the City are applicable to the PD District except to the extent that they conflict with a specific provision of the approved Development Plan.

Section 5. The approved Development Plan for McPhail Industrial Subdivision, including the Development Plan Report, Maps and other supporting documentation (on file with the City Planning Department), are incorporated herein by reference and shall be amended to include the conditions as set forth in the document entitled "Conditions for the Approval of the McPhail Industrial Subdivision Planned Development," which is attached hereto as Exhibit "B" and incorporated herein by reference.

Section 6. At the time of development, the Applicant shall comply with all relevant building codes and development standards contained in the City's Code of Ordinances or in the Development Plan; provided, however, that the development standards contained in the adopted Development Plan shall supercede comparable standards contained in the Code of Ordinances.

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Section 7. Pursuant to Article 5 of the City's Land Development Regulations, the Applicant shall comply with all applicable infrastructure regulations.

Section 8. The City Commission may rezone any phase of the Project which has not obtained a certificate of occupancy within five years from the date of adoption of this Ordinance.

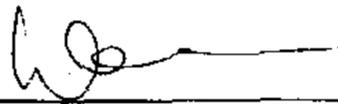
Section 9. The City Engineer, Planning Director and Building Department are hereby directed to change the Comprehensive Zoning Map of the City of DeLand to conform with the change of zoning enacted in this Ordinance.

Section 10. No rights to obtain final development orders nor any rights to develop the property have been granted or implied by this Ordinance. Final development orders for the property including, but not limited to, subdivision and site plan approval shall be subject to a determination of concurrency.

Section 11. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the validity of the remaining portions of this Ordinance.

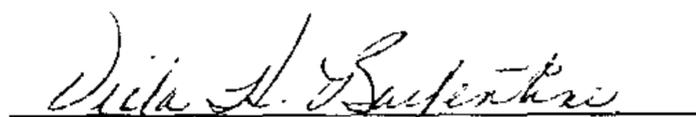
Section 12. This Ordinance shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 19th day of December, 1994.



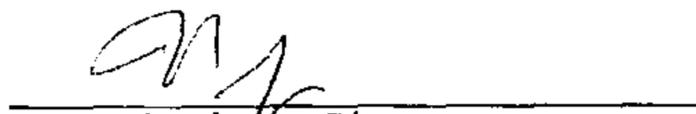
David C. Rigsby
Mayor-Commissioner

ATTEST:


Viola H. Ballentine
City Clerk - Auditor

Passed on first reading: December 5, 1994
Adopted on second reading: December 19, 1994

APPROVED AS TO FORM AND LEGALITY:


Mark A. Zimmerman
City Attorney

FILE NO. 94-1920

EXHIBIT "A"

A parcel of land lying in Section 34, Township 16 South, Range 30 East, Volusia County, Florida, being a part of Parcel "C" as shown on a plat as recorded in Map Book 27, Page 284, Public Records of Volusia County, Florida, being more particularly described as follows: Commencing at the Western most corner of said Parcel "C", run thence N 48 degrees 44'47" E a distance of 696.10 feet to the Point of Beginning, being the Southeast corner of the intersection of Saratoga Street and Ranger Avenue; thence run S 41 degrees 08'07" E a distance of 886.38 feet along the Easterly Right-of-Way of Ranger Avenue, to a point; thence run N 48 degrees 55'35" E a distance of 415.40 feet along the Northerly Right-of-Way of Yorktown Street to a point; thence run N 41 degrees 11'56" W a distance of 887.63 feet along the Westerly Right-of-Way of Langley Avenue to a point; thence run S 48 degrees 44'47" W a distance of 414.40 feet along the Southerly Right-of-Way of Saratoga Street to the Point of Beginning.

CONDITIONS FOR THE APPROVAL
OF THE FINAL PLAT FOR
MCPHAIL INDUSTRIAL SUBDIVISION

a. Conditions Concerning the PD:

Prior to the recording of the plat, the City shall approve and record a Planned Development for the subject property, addressing the issue of the phasing of development and other relevant issues.

b. Conditions Concerning the Plat

1. Delete existing Note #1.

2. Make existing Note #2 #1, and add the following to the existing text:

"All lots shall be subject to a 7.5' wide utility easement along all rear and side lot lines. Additionally, there is a 5' wide utility easement along the Ranger Avenue frontage of lots 2, 4, 6, 8, 10, 12, 14, 16 and 18. Ownership and maintenance of all easements shall be the responsibility of the property owners."

3. Add a new Note #2 that reads:

"Until such time as Ranger Avenue is dedicated and accepted by the City, it is not a public right-of-way and, furthermore, lots 2, 4, 6, 8, 10, 12, 14, 16 and 18 are not guaranteed access from Ranger Avenue until such time as it is dedicated and accepted by the City."

4. Add a New Note #3 that reads:

"This plat shall be subject to the provisions of a City of DeLand Planned Development Agreement, as recorded in Map Book __, Page _ of the official records of Volusia County.

c. Comments Concerning the Covenants and Deed Restrictions:

1. Revise the existing language in regarding trees to read, "At the time of development review for each lot, the development shall com-

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Diane M. Matousek
Volusia County, Clerk of Court

ply with all relevant tree protection requirements, per Article 6, Section 33-57, and landscaping requirements, per Article 8, Section 33-92, of the City's Land Development Regulations".

2. In Item #4 of the Declaration and Restrictive Covenants, delete the reference to septic system.
 3. Revise the Covenants to create a property owners association that has the authority to maintain the stormwater system and any other shared infrastructure.
 4. Revise the Declaration and Restrictive Covenants and final plat to show easements for the drainage system and internal driveways.
- d. Conditions Relating to the Subdivision Improvement Inspection Fee

Waive the required Subdivision Improvement Inspection Fee of \$500.

007433

ORDINANCE 2000-35

AN ORDINANCE OF THE CITY OF DELAND, FLORIDA, AMENDING ORDINANCE NO. 94-58; WHICH APPROVED THE DEVELOPMENT PLAN FOR THE MCPHAIL PD, BY AMENDING THE DEVELOPMENT SCHEDULE; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 94-58, adopted December 19, 1994, approved a Development Plan for the McPhail PD; and

WHEREAS, the Applicant for the McPhail PD is requesting that the Planned Development Document be amended to allow for the demolishing and construction of new buildings; and

WHEREAS, the proposed amendment will not have a detrimental effect on the surrounding properties, and it is in the best interests of the City to grant the requested amendment to the McPhail Planned Development;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF DELAND, FLORIDA:

Section 1. City of DeLand Ordinance 94-58, approving the Development Plan Report for the McPhail PD, is hereby amended by amending the Development Schedule contained in that portion of the Development Plan Report as follows:

- (1) Demolish building contained on lot 6 – within 3 months after adoption of ordinance modifying original PD (by January 16, 2001)
- (2) Submit site plan for lots 5 & 6 – within 2 months from adoption date site plan should be approved (by December 16, 2000). Building permit shall be submitted and approved by January 16, 2001.
- (3) Construct new building on lot 6 – complete within 10 months after demolition on lot 6 (by November 16, 2001)
- (4) Demolish remainder of building on lot 5 – within 3 months after new building on Lot 6 is constructed (by February 16, 2002). Existing slab may remain to be used for new building.
- (5) Submit demolition permit for building on Lot 4 by January 16, 2001. Complete demolition within one year (January 16, 2002).

Alternative:

Bring building on lot 4 up to code under same schedule as for demolition above. Existing building must be brought up to meet current city land development regulations, including building code. Site plan submitted and approved, building permit submitted and approved, and upgrade completed by January 16, 2002.

The dates above are provided as maximums and can not be exceeded. The overall time period for completing the entire project is 15 months. Failure to meet the above deadlines may result in compliance action by the Code Enforcement Board.

Section 2. At the time of development, the developer shall comply with all relevant building codes and development standards contained in the City's Code of Ordinances or in the Development Plan; provided, however, that the development standards contained in the adopted Development Plan, as amended, shall supersede comparable standards contained in the Code of Ordinances.

Section 3. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 4. All Ordinances, or parts of Ordinances, in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 5. This Ordinance shall become effective immediately upon its adoption.

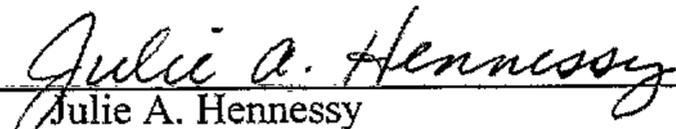
PASSED AND DULY ADOPTED this 16th day of October, 2000.



David C. Rigsby
Mayor - Commissioner

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PAGE: 472
Diane M. Hatousek
Volusia County, Clerk of Court

ATTEST:



Julie A. Hennessy
City Clerk - Auditor

Passed on first reading: October 2, 2000
Adopted on second reading: October 16, 2000

APPROVED AS TO FORM AND LEGALITY:



Mark A. Zimmerman
City Attorney