

ORDINANCE 92-1

AN ORDINANCE OF THE CITY OF DELAND, FLORIDA CHANGING THE ZONING FROM R-4, URBAN SINGLE FAMILY RESIDENTIAL DISTRICT, TO PD, PLANNED DEVELOPMENT DISTRICT, ON DESCRIBED PROPERTY LOCATED NORTHWEST OF THE INTERSECTION OF MARSH ROAD AND U.S. 92/S.R. 600; APPROVING A DEVELOPMENT PLAN FOR THE MARSH POINT BUSINESS PARK, A PLANNED DEVELOPMENT CONSISTING OF APPROXIMATELY 22.07 ACRES OF PROPERTY; DIRECTING A CHANGE IN THE COMPREHENSIVE ZONING MAP; CONDITIONING FINAL DEVELOPMENT APPROVAL ON A DETERMINATION OF CAPACITY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Virginia Jacobs (hereinafter referred to as "the Applicant") owns a 22.07 acre parcel of land located Northwest of the intersection of Marsh Road and U.S. 92/S.R. 600, 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 land described in Exhibit "A" was annexed to the City on June 5, 1989 with an initial zoning designation of PD, Planned Development District, pending the approval of a development plan for the property pursuant to Section 33-24 of the Code of Ordinances of the City of DeLand (the "Code"); and

WHEREAS, the Applicant has applied for a change of zoning from the present zoning classification of R-4, Urban Single Family Residential, to PD, Planned Development District; and

WHEREAS, said rezoning as a PD District is consistent with both the City of DeLand Comprehensive Plan and the purpose and intent of Section 33-24; and

WHEREAS, the Applicant has submitted an application for approval of a development plan for the Marsh Point Business Park 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, intensity of development, open spaces, plazas and recreation, sidewalks, trails and bikeways, environmental constraints, internal access and circulation, external transportation access, off-street parking, public facilities and unified control;

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

Section 1. The City Commission has held a public hearing to confirm the initial zoning designation of the land described in Exhibit "A" and to approve the change of zoning from R-4, Urban Single Family Residential, 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 33-24 of the Code and the development of this property shall take place in accordance with that Section and in substantial compliance with the Development Plan Report and Maps submitted by the Applicant 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 Applicant 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 set forth in Section 5 below.

Section 5. The approved Development Plan for the Marsh Point Business Park is set forth below:

(a) Development Concept: The Applicant proposes to construct a business park consisting of approximately thirty (30) one-half (1/2) acre lots to be used for wholesale distribution, storage and limited light manufacturing purposes. The Applicant shall maintain unified ownership of the property until a final plat has been approved for areas to be subdivided. No lots or parcels of land shall be sold until a final plat encompassing the property to be conveyed has been approved for filing by the City; provided, however, that the Applicant shall have the right to sell the entire property described in Exhibit "A" to a single owner before final plat approval so long as said owner specifically agrees to be bound by all of the terms and conditions of this Ordinance and the Applicant agrees to have a sidewalk constructed on her other property on the East side of Marsh Road.

(b) Phases of Development: This project is projected to be developed in two phases over a five year period. The

first phase includes approximately seventeen (17) one-half (1/2) acre lots to be developed over three years. The second phase includes approximately thirteen (13) one-half (1/2) acre lots to be developed within the following two years. Specific conditions for permitting each phase shall be determined at the time of preliminary plat approval. As each phase is developed, the appropriate roadway and utility infrastructure including, but not limited to, water, sewer and stormwater facilities, shall be constructed in accordance with the master drainage, utility and roadway plans for the project, subject to approval of final engineering plans for each phase of development.

(c) Land Use and Intensity: The Marsh Point Business Park shall be limited to light industrial/wholesale commercial enterprises situated on one-half (1/2) acre lots with customary accessory uses, common drainage, traffic circulation and natural open space areas. The specific permitted uses are described on pages 7 - 10 of the Development Plan Report except that items 11, 15, 37, 38, 48, 50, 56, 65, 67, 73, 74, 84, 85, 87, 95, 96, 99, 103 and 113 shall not be permitted uses. Any outside storage (more than 48 hours) of vehicles, material, equipment and supplies shall be fully screened from public view; provided, however, that no vehicles shall be stored on the property for more than 90 days and no junk yard or auto salvage operations shall be permitted whatsoever. All retail sales shall be incidental to a primary wholesale commercial activity.

The development of the property shall be consistent with the limits described below for each land use area within the proposed PD; provided, however, that the Applicant shall have the right to reduce the net density of any given phase without having to amend the approved Development Plan for the project. The location and approximate size of the land use areas are shown on the Development Plan Maps and identified as separate phases.

MAXIMUM PERMITTED DENSITY

| | Total Lots | Upland Areas | Net Density | Wetland Areas | Total Acreage | Gross Density |
|---------|-----------------|--------------------|--------------------|-------------------|--------------------|--------------------|
| Phase 1 | 17 | 12.076 | 1.408 | 0.060 | 12.136 | 1.401 |
| Phase 2 | 13 | 2.964 | 4.386 | 6.970 | 9.934 | 1.309 |
| TOTAL | 30 ^a | 15.04 ^b | 1.995 ^a | 7.03 ^c | 22.07 ^d | 1.359 ^a |

^aProject density shall be reduced if the net developable acreage is not sufficient to accommodate 30 one-half (1/2) acre lots plus common drainage, open space, roads, landscape buffers, tree protection, required mitigation areas, etc.

^bSubject to final determination of wetland limits.

^cPreliminary estimate only. Actual wetland limits shall be determined before preliminary plat approval by the appropriate regulatory agencies.

^dIncludes 2.926 acres of roads, 1.156 acres of landscape buffers and 3.524 acres of drainage and conservation areas.

(d) Special Regulations: Notwithstanding any other provision of this Ordinance, no use shall be made of the property which interferes with the operation of airborne aircraft. The following special requirements shall apply to each permitted use:

- (1) All lights or illumination used in conjunction with streets, signs, parking areas and other uses of land or buildings shall be arranged and operated in such a manner that they are not misleading or dangerous to passing aircraft.
- (2) No operations shall produce smoke, glare or other visual hazards within three (3) statute miles of any usable runway.
- (3) No operations shall produce electronic interference with navigation signals or radio communications between the airport and passing aircraft.
- (4) There shall be no storage of explosive materials, assemblage of large groups of people or any other use that could produce a major catastrophe as a result of an aircraft crash.

(e) Common Areas: The Applicant shall create common drainage, natural open space, landscape buffers and conservation areas and retain unified ownership and control of all lands identified for such land uses; provided, however, that after the formation of a Property Owner's Association, said lands may be transferred to, owned and maintained by the Property Owner's Association.

(f) Environmental Considerations: Prior to preliminary plat approval, the Applicant shall engage an environmental consultant to: (1) determine the census of any endangered or threatened species (flora and fauna) on the property; (2) determine the location of such species; and, (3) provide documentation from the appropriate regulatory agency approving a plan to accommodate any such endangered or threatened species, whether on- or off-site.

In addition, the Applicant shall: (1) prepare a report on soil limitations; (2) identify any wetland vegetation; (3) develop a wetlands mitigation plan; and, (4) describe any plans to enhance the viability of wetland areas. As part of this report, the Applicant shall submit documentary evidence that all required permits for stormwater discharge, dredge

and fill and wetlands mitigation have been obtained from the appropriate regulatory agencies.

(g) Public Facilities: All necessary public facilities and services required to support the development of the property shall be available concurrent with the impacts of development. If the necessary public facilities and services are not available concurrent with the impacts of development, the Applicant may be required to bear the reasonable cost of providing same as a condition to preliminary or final plat approval. Potable water, sanitary sewer and solid waste service shall be provided by the City of DeLand upon approval of final engineering plans, completion of utility infrastructure and payment of the usual and customary fees.

(h) Stormwater Drainage: The development shall meet or exceed the requirements of the Stormwater Management and Conservation Ordinance, Chapter 25B of the Code, and any other applicable federal, state or local law or ordinance regulating stormwater management and wetlands protection.

(i) Roadways: The Applicant estimates that the Development Plan will not adversely affect the level of service on area roadways below the minimum acceptable levels of service. Nevertheless, the Applicant shall provide a left turn lane on Marsh Road for northbound traffic to the project entrance to prevent any peak hour traffic from backing up onto U.S. 92/S.R. 600. All roadways shall be constructed in compliance with the Subdivision Ordinance, Chapter 26A of the Code, and the State's Minimum Standards for Public Streets and Roads. All roads within the project shall be dedicated to the City of DeLand.

(j) Off-street Parking. The proposed parking standards for the development, as outlined in the Development Plan Report, meet or exceed minimum requirements.

(k) Sidewalks, Trails and Bikeways: The Applicant shall construct a four foot (4') wide sidewalk along the Applicant's property on the East side of Marsh Road to facilitate safe pedestrian access from U.S. 92 to the nearby residential areas. The Applicant shall provide for the perpetual maintenance of the sidewalk.

(l) Screening: The Applicant shall maintain a twenty foot (20') wide landscape buffer around the perimeter of the project along Old Daytona Road, Marsh Road, U.S. 92 and adjacent residential areas. This landscape buffer, together with the proposed building setback regulations described in the Development Plan Report, is deemed sufficient to satisfy the minimum perimeter setback requirements of Section 33-24 of the Code. In addition, the Applicant shall construct and maintain a seven foot (7') high fence along the side or rear lot lines of any lots where they abut residential areas and shall not permit the outside storage of any materials to

exceed eight feet (8') high.

(m) Property Owner's Association: A Property Owner's Association shall be created by the Applicant to own, manage and maintain the common areas. The owner of each lot shall be a member of the Association and shall be liable for, with a lien securing payment of, annual and special assessments collected by the Association for the improvement, maintenance, enhancement, enlargement and operation of common areas, and for payment of taxes, governmental assessments, insurance, costs of materials, equipment, labor, professional services, management and supervision necessary to carry out the authorized functions of the Association, and for payment of principal, interest and other charges connected with loans made to or assumed by the Association.

The charter and bylaws of said Property Owner's Association and any amendments thereto or related agreements, covenants, easements or restrictions which relate to the terms and conditions of this Ordinance shall be furnished to the City for review and approval at least thirty (30) days before proposed execution and filing in the Official Records of Volusia County, Florida. The Applicant shall bear and pay the costs of recording all the aforesaid documents. The City shall not be responsible for enforcing the Declaration of Protective Covenants, Conditions and Restrictions for the Marsh Point Business Park or the Articles of Incorporation or By-Laws of the Association.

(n) Architectural Review Board: The Applicant shall create an Architectural Review Board. Prior to the construction of any buildings or accessory structures, all plans and specifications must have the prior approval of this Board. All regulations pertaining to the Architectural Review Board shall be at the sole discretion of the Applicant; provided, however, that the regulations shall be completely consistent with the requirements of this Ordinance. The City shall not be responsible for enforcing the regulations of the Architectural Review Board.

(o) Binding Effect of Plans; Recording: The provisions of the foregoing Development Plan including any and all supplementary orders and resolutions, shall bind and inure to the benefit of the Applicant and her heirs, personal representatives, executors, administrators, successors and assigns. A copy of this Ordinance and all subsequent orders and resolutions shall be filed for record in the Official Records of Volusia County, Florida.

(p) Reverter Provision: The City Commission may rezone any portion of the project which has not secured final plat approval on or before December 31, 1996 as may be necessary or appropriate to protect adjoining properties or the public health, safety and welfare, unless the City Commission, for good cause shown, shall extend the time period indicated in

this paragraph.

Section 6. 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 7. 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 capacity.

Section 8. 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 9. This Ordinance shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 21st day of January, 1992.



Wiley M. Nash
Mayor-Commissioner

ATTEST:



Viola H. Ballentine
City Clerk - Auditor

Passed on first reading: December 16, 1991
Adopted on second reading: January 21, 1992

APPROVED AS TO FORM AND LEGALITY:



Astrid de Parry
City Attorney



3316 1867

ORDINANCE NO. 89-20

VOLUSIA CO. FL

AN ORDINANCE ANNEXING INTO THE CITY OF DeLAND APPROXIMATELY 23.02 ACRES OF PROPERTY LOCATED AT THE NORTHWEST CORNER OF US-92 AND MARSH ROAD, AMENDING CITY BOUNDARIES AND ZONING MAP TO INCLUDE THE ANNEXED PROPERTY AS PD, PLANNED DEVELOPMENT DISTRICT; AFFIRMING COMPLIANCE WITH STATUTORY PROCEDURE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF DeLAND, FLORIDA:

Section 1. The following described parcel of land in Volusia County, Florida, owned by Virginia M. Jacobs and located at the northwest corner of US-92 and Marsh Road and consisting of approximately 23.02 acres of property, is hereby annexed and made part of the City of DeLand, subject to the jurisdiction, obligations, benefits and privileges of property within the municipality:

All of Lots 11, 15 and 16 and that part of Lots 13, 14, 25 and 26, lying westerly of Marsh Road as now laid out, and the south 1/2 of a 40 foot wide unnamed road lying north of and adjacent to said Lots 14 and 15 and westerly of Marsh Road and the west 1/2 of a 40 foot wide unnamed road lying east of and adjacent to said Lots 11 and 16, and southerly of Old Daytona Road, as shown on the Plat of Blue Lake Celery Company Subdivision, according to the Plat recorded in Map Book 4, Page 171, Public Records of Volusia County, being more particularly described as follows:

Commence at the intersection of the centerlines of Old Daytona Road and Marsh Road, said intersection being marked by a cross in the Old Brick Road; run thence S 43d17'32" E, along the centerline of Marsh Road as now laid out, a distance of 492.70 feet to its intersection with the easterly extension of the south line of Lot 1, First Addition to DeLand Highlands, according to the plat recorded in Map Book 19, Page 23, Public Records of Volusia County, Florida; thence S 89d46'28" W, along said south line, a distance of 41.06 feet to the southeast corner of said Lot 1 and the Point of Beginning; thence S 43d17'32" E, and parallel with the centerline of Marsh Road, as now laid out and

U. J. Smith
CLERK CIRCUIT COURT
VOLUSIA CO., FL
89 JUN 13 PM 1:01

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RECORD VERIFIED
077203

OVER

occupied, a distance of 1278.45 feet to the point of curvature of a curve which is concave westward having a radius of 263.52 feet and a central angle of 43d22'09"; thence along the arc of said curve, a distance of 199.47 feet to the Point of Tangency thereof; thence S 00d04'38"W, and parallel with the aforesaid centerline, a distance of 166.50 feet to the northerly right-of-way line of U.S. Highway 92; Thence S 63d13'48"W, along said right-of-way line, a distance of 75.86 feet to a point on the south line of Lot 26, aforesaid; Thence S 89d22'08" W, along said south line, a distance of 459.24 feet to a point on the easterly right-of-way line of that certain canal as shown on the aforesaid plat of Blue Lake Celery Company subdivision; Thence N 40d13'53" W, along said right-of-way line, a distance of 1285.18 feet; Thence N 29d41'16" W, along said right-of-way line, a distance of 572.41 feet to a point on the southerly right-of-way line of Old Daytona Road; Thence N 66d41'26" E, along said right-of-way line, a distance of 364.39 feet to the northwest corner of Lot 4, First Addition to DeLand Highlands, aforesaid; Thence S 00d42'00" E, along the West line of Lots 2, 3 and 4, First Addition to DeLand Highlands, a distance of 306.72 feet to the southwest corner of said Lot 2; Thence N 89d46'28" E, along the south line of Lots 1 and 2, aforesaid, a distance of 392.50 feet to the Point of Beginning; said parcel containing 23.02 acres, more or less; subject to right-of-ways and easements of record.

Section 2. The boundary lines of the City of DeLand are hereby changed and redefined to include the land described in the legal description contained in Section 1 above.

Section 3. The zoning map of the City of DeLand is hereby amended to zone the above-described parcel as PD, Planned Development District.

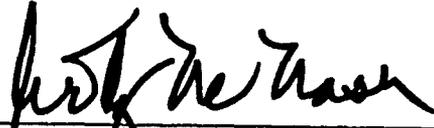
Section 4. It is hereby found that Section 3 above is in compliance with Florida Statutes Section 171.062(2).

Section 5. The City Commission finds that a public hearing has been held on this ordinance prior to adoption in the Commission Chambers, City Hall, DeLand, Florida, at 7:00

P.M., June 5, 1989, after notice published in accordance with Florida Statutes Section 171.044.

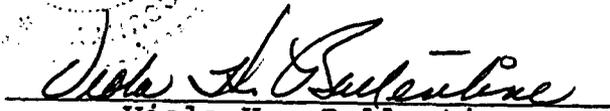
Section 6. This ordinance shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 5th day of June, 1989.



Wiley M. Nash
Mayor-Commissioner

ATTEST:



Viola H. Ballentine
City Clerk - Auditor

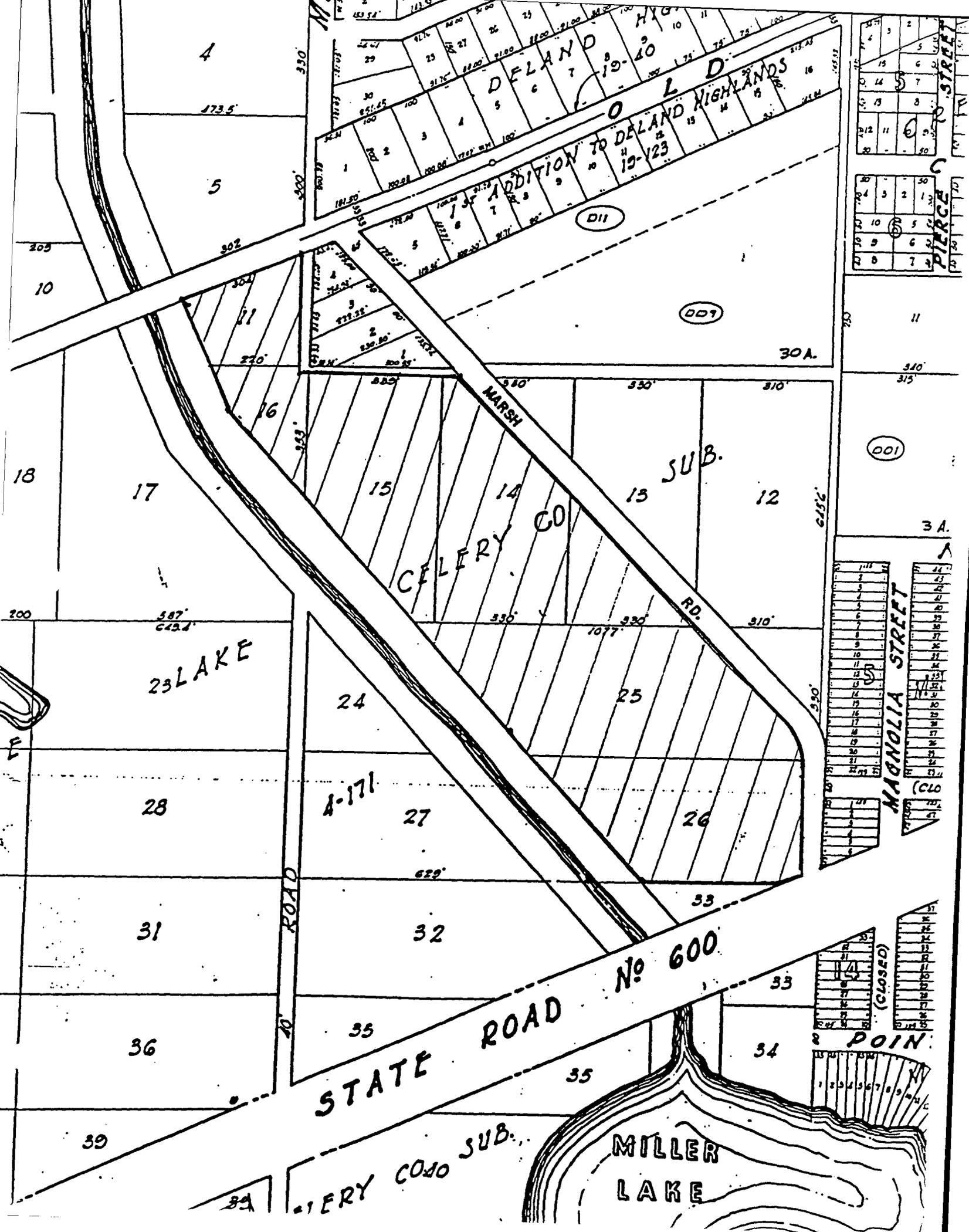
Passed on first reading: May 1, 1989
Adopted on second reading: June 5, 1989

APPROVED AS TO FORM AND LEGALITY:



Astrid de Parry
City Attorney

BOOK PAGE
3316 1869
VOLUSIA CO. FL



DELAND HIGHLANDS

ADDITION TO DELAND HIGHLANDS

CELERY CO. SUB.

STATE ROAD No 600

MILLER LAKE

23 LAKE

| | | | |
|----|----|----|----|
| 1 | 2 | 3 | 4 |
| 5 | 6 | 7 | 8 |
| 9 | 10 | 11 | 12 |
| 13 | 14 | 15 | 16 |
| 17 | 18 | 19 | 20 |

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| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 | 50 |
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| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 | 50 |
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| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 | 50 |
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REZONING CHECKLIST

| Description of Form or Memo | To Whom Sent | Date Sent | Date Received |
|--|---|-----------|---------------|
| ✓ Application Fee | $\begin{array}{r} \$ 325 \\ 115 \\ \hline 435 \end{array} + \begin{array}{r} 23 \\ 5 \\ \hline 115 \end{array}$ | | ✓ 2/25 |
| Advertising Fee (Petition involving 5% of City or Textual Change) | | N/A | |
| Notice of Incomplete Application | | ✓ | AM |
| Log into Time Manager | | | |
| ✓ Graphics Request Form | Mike Waters, Planning. | 8/27 | |
| Rezoning Memo Ordinance: Rezoning Appl. | City Attorney M79101 | | |
| Notice to Adjoining Property Owners (At least 30 days prior to 2nd Commission Mtg.) | NT29101 Renotified (23) ANT29102 (23) | 11/25 | |
| Legal Advertising (Petition involving 5% of City or Textual Change 1st. ad 7 days prior to 1st CC Mtg. 2nd, 5 days prior to 2nd CC Mtg.) | News Journal | N/A | |
| Prepare Staff Report Transmit Staff Report with public participation memo | Applicant Planning Board Z910201 | 11/13 | |
| Post Planning Board Mtg. Status Letter | Applicant & Owner | | |
| Prepare RCA for CC Mtg. | | 12/11 | |
| Billing Form | City Clerk | | |
| Post CC. Status Letter (Including Billing or Remittance) | Applicant & Owner | | |

SEE PSB-91-02 for Info on Environmental Survey & Contract
clean out directory

JAMES A. PATTERSON

2810 PAA STREET, SUITE 6
HONOLULU, HAWAII 96819
(808) 836-8899 • (808) 836-7767
(808) 927-2343 MOBILE

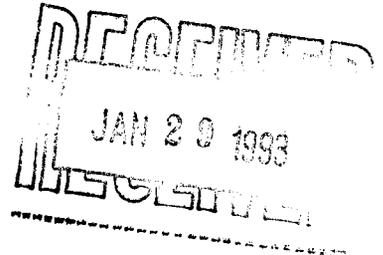
1830 PATTERSON AVENUE
DELAND, FLORIDA 32724
(904) 738-4899 • (904) 738-1276
(904) 822-0034 • (904) 822-0035 MOBILE

LAHAINA, MAUI
(808) 661-4275
(808) 661-4861
EXT. 1212

Hand Delivered

January 29, 1993

Mr. Gary Schindler
City Planner
City of DeLand
PO Drawer 449
DeLand, FL 32721



RE: Avigational Easement - Marsh Point Business Park

Dear Gary:

We have attached a description of the property we purchased and please note we have also attached a description of the avigational easement by Steinman Surveying dated January 26, 1993 and marked "DRAFT". We have not had an opportunity to have this easement verified.

Sincerely,

James A. Patterson

JAP/bc

Jan 26, 1993

David and Alex,

The legal descriptions for the proposed aviagation easement are attached; however, the legal for the northern portion of the site is labeled Phase II and the legal for the southern portion of the site is labeled Phase I. This happened because Mike Ruskin was working from an old graphic which was inaccurately labeled. I am having new correctly labeled graphics run. By Wednesday, I should have the correctly labeled Attachment A for you.

Please have Mr. Patterson and Ms. Jacobs sign the aviagation easement and return them to the City. Wayne has stated that, prior to placing this item on the Commission's February 1, 1993 agenda, we must have the signed document.

Gary Schindler

Gary Schindler

AVIGATIONAL EASEMENT

THIS INDENTURE is made this 29th day of January, 1993, by and between James A. Patterson (U) (hereinafter called "Grantor"), and the City of DeLand, a municipal corporation organized and existing under the laws of the State of Florida (hereinafter called "Grantee").

W I T N E S S E T H:

WHEREAS, Grantee is the owner and operator of the DeLand Municipal Airport located in Volusia County, Florida, and in close proximity to the land of Grantor as hereinafter described; and

WHEREAS, Grantee desires to obtain and preserve for the use and benefit of the general public a right of free and unobstructed flight for aircraft landing upon, taking off from or maneuvering about the Airport;

NOW, THEREFORE, in consideration of the sum of ten dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby grant, bargain, sell and convey to Grantee and its successors and assigns, for the use and benefit of the general public, an easement and right-of-way for the free and unobstructed passage of aircraft in and through the airspace which lies above an elevation of one hundred (100) feet above mean sea level (as determined by using the National Geodetic Vertical Datum of 1929), over and across Grantor's lands which are described as follows:

SEE EXHIBIT "A" ATTACHED HERETO.

Further, Grantor does hereby grant and convey to Grantee and its successors and assigns, a continuing right to keep the airspace above said elevation free and clear from any and all fences, crops, trees, poles, buildings and other obstructions of whatsoever kind or nature which now extend or which may at any time in the future extend above said elevation, together with the right of ingress to, egress from, and passage over the land of Grantor described above for the purpose of effecting and maintaining such clearance and of removing any and all obstructions which now or may hereafter extend above said elevation. Grantor further covenants that Grantor shall not hereafter construct, permit or suffer to remain upon said land any obstruction that extends above said elevation.

This Avigational Easement and all rights pertaining to it shall exist until the Airport is abandoned and is no longer used for airport purposes. This Avigational Easement shall be binding upon and shall inure to the benefit of the parties' heirs, successors and assigns.

EXECUTED this 29th day of January, 1993.

WITNESSES:

Sign [Signature]
Print Beth Clifton

Sign [Signature]
Print Theresa A. Rauschenberger

GRANTOR:

Sign [Signature]
Print James A. Patterson II
Address: 1830 Patterson Ave.
DeLand, FL 32724

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 29th day of January, 1993, by James A. Patterson II, who is personally known to me or who has produced _____ as identification and who did take an oath.

NOTARY PUBLIC

Sign [Signature]
Print Beth Clifton
State of Florida
at Large

My Commission Expires:

BETH CLIFTON
NOTARY PUBLIC, STATE OF FL
COMM. EXP. AUGUST 20, 1993
#AA700372



STEINMAN SURVEYING, INC.
professional land surveyors

**DESCRIPTION OF AVIGATION EASEMENT FOR THE CITY OF DeLAND
MARSH POINT BUSINESS PARK - PHASE I**

January 26, 1993

Proj. Code 88074

EXHIBIT "A"

All that part of Lots 13 thru 16, inclusive, and Lots 25 and 26, Blue Lake Celery Company Subdivision, as recorded in Map Book 4, Page 171, Public Records of Volusia County, Florida, described as follows: Commencing at a concrete monument at the southeast corner of said Lot 26, run thence $S89^{\circ}22'08''W$ along the south line thereof a distance of 556.24 feet to a point on the easterly right of way line of a canal; thence $N40^{\circ}13'53''W$ along said right of way line a distance of 681.38 feet to the Point of Beginning; thence continue $N40^{\circ}13'53''W$ along said right of way line a distance of 603.79 feet; thence $N29^{\circ}41'16''W$ along said right of way line a distance of 166.91 feet to a point on the northeast line of an avigation easement; thence $S69^{\circ}44'01''E$ along said line a distance of 969.81 feet; thence $S46^{\circ}42'28''W$ a distance of 258.86 feet; thence $N40^{\circ}13'53''W$ a distance of 90.00 feet; thence $S49^{\circ}46'07''W$ a distance of 249.64 feet to the Point of Beginning; containing 4.76 acres, more or less.



DESCRIPTION OF PROPERTY PURCHASED

That part of Lots 13, 14 and 25 and all of Lots 11, 15 and 16, BLUE LAKE CELERY COMPANY'S SUBDIVISION AT DELAND, a subdivision according to map in Map Book 4, Page 171, Public Records of Volusia County, Florida, described as follows:

Commence at the intersection of the center lines of Old Daytona Road and Marsh Road, said intersection being marked by a cross in the old brick road; run thence S 43°17'32" E, along the center line of Marsh Road as now laid out, a distance of 520.07 feet to its intersection with the North line of Lot 14, Blue Lake Celery Company Subdivision, aforesaid; thence S 89°46'28" W, along said North line, a distance of 41.06 feet to a point which is 30 feet, as measured at right angles, Westerly of the center line of Marsh Road and the Point of Beginning; thence S 43°17'32" E and parallel with said center line, a distance of 643.07 feet; thence run S 46°42'28" W a distance of 315.87 feet; thence run N 40°13'53" W a distance of 90.0 feet; thence run S 49°46'07" W, a distance of 249.64 feet; thence run N 40°13'53" W a distance of 603.79 feet; thence run N 29°41'16" W a distance of 572.41 feet; thence run N 66°41'26" E a distance of 342.72 feet; thence run S 00°42'00" E a distance of 318.22 feet; thence run N 89°46'28" E a distance of 392.51 feet to the Point of Beginning.

DESCRIPTION OF PROPERTY PURCHASED

Blackwell & Associates

LAND SURVEYORS, INC.

1496 S. Volusia Avenue
P.O. Box 741013
Orange City, Florida 32774-1013

Phone:
(904) 775-3550

Commence at the intersection of the Centerlines of Old Daytona Road and Marsh Road, Said intersection being marked by a cross on the Old Brick Road; run thence S 43°17'32" E, along the Centerline of Marsh Road as now laid out, a distance of 520.00 feet to its intersection with the North line of Lot 14, Blue Lake Celery Company Subdivision, aforesaid; thence S 89°46'28" W, along said North line, a distance of 41.06 feet to a point which is 70.0 feet, as measured at right angles, westerly of the Centerline of Marsh Road and the Point of Beginning; thence S 43°17'32" E and parallel with said Centerline, a distance of 640.00 feet; thence run S 46°42'28" W a distance of 315.87 feet; thence run N 40°13'53" W a distance of 90.0 feet; thence run S 49°46'07" W a distance of 249.64 feet; thence run N 40°13'53" W a distance of 603.79 feet; thence run N 29°41'16" W a distance of 572.41 feet; thence run N 66°41'26" E a distance of 342.72 feet; thence run S 00°42'00" E a distance of 318.22 feet; thence run N 89°46'28" E a distance of 392.51 feet to the Point of Beginning. Containing 11.728 Acres more or less and being subject to any Easements of Record.

NOTE: (As I was instructed, I scaled for missing data), some of the bearings and distances in this legal description was scaled from an Engineering drawing by Michael T. McMahan, P.E., said drawing was out of scale by as much as 10.0 feet in some areas that could effect this legal discription and the amount of square feet contained in it. No legal transactions should be based on this legal description without contacting the Engineer, to clear up discrepancies in the scale of his plans.

Dec. 15, 1992
Date


Ralph E. Blackwell RLS 3283

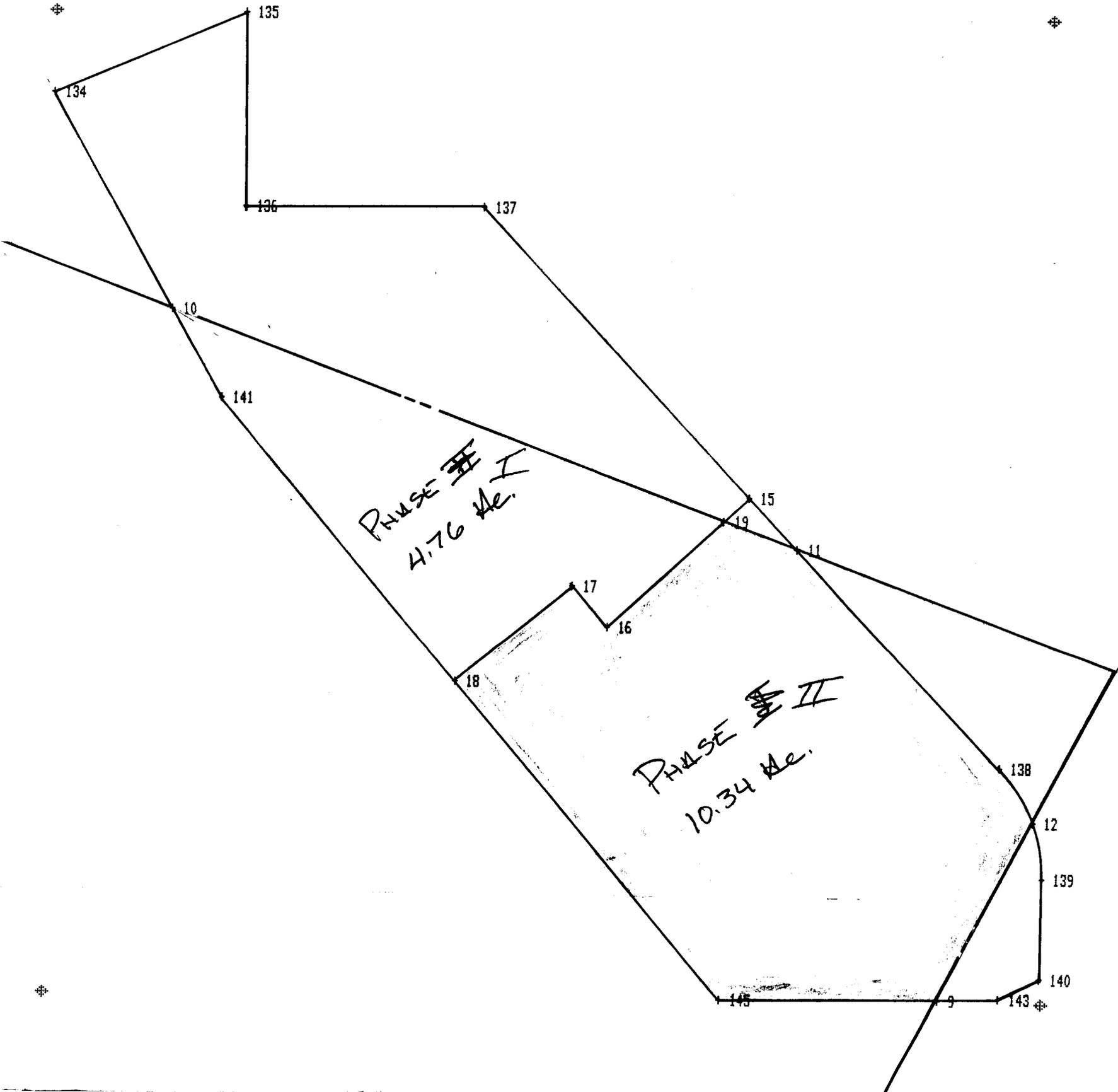
ARTHUR W. STEINMAN & ASSOC., INC.
DELAND, FLORIDA

JOB NUMBER: 89040WATSON

SCALE: 1 INCH = 200 FEET

COORDINATE BOUNDARIES:
NORTHING = 3162.9389 TO 4776.9889
EASTING = 4230.8409 TO 5871.5774

RECEIVED
JAN 26 1993
INSURANCE





STEINMAN SURVEYING, INC.
professional land surveyors

**DESCRIPTION OF AVIGATION EASEMENT FOR THE CITY OF DELAND
MARSH POINT BUSINESS PARK - PHASE II**

January 26, 1993

Proj. Code 88074

EXHIBIT "A"

All that part of Lots 13 thru 16, inclusive, and Lots 25 and 26, Blue Lake Celery Company Subdivision, as recorded in Map Book 4, Page 171, Public Records of Volusia County, Florida, described as follows: Commencing at a concrete monument at the southeast corner of said Lot 26, run thence S89°22'08"W along the south line thereof a distance of 197.39 feet to a point on the southeast line of an avigation easement, said point being the Point of Beginning; thence continue S89°22'08"W along the south line of said Lot 26 a distance of 358.85 feet to a point on the easterly right of way line of a canal; thence N40°13'53"W along said right of way line a distance of 681.38 feet; thence N49°46'07"E a distance of 249.64 feet; thence S40°13'53"E a distance of 90.00 feet; thence N46°42'28"E a distance of 258.86 feet to a point on the northeast line of an avigation easement; thence S69°44'01"E along said line a distance of 128.03 feet to a point on the westerly right of way line of Marsh Road; thence S43°17'32"E along said right of way line a distance of 493.37 feet to the point of curvature of a curve concave to the west having a central angle of 23°01'41" and a radius of 263.52 feet; thence run along the arc of said curve a distance of 105.91 feet to a point on the southeast line of an avigation easement; thence S27°23'29"W along said line a distance of 330.44 feet to the Point of Beginning; containing 10.32 acres, more or less.

Jan 26, 1993

David and Alex,

The legal descriptions for the proposed aviagation easement are attached; however, the legal for the northern portion of the site is labeled Phase II and the legal for the southern portion of the site is labeled Phase I. This happened because Mike Ruskin was working from an old graphic which was inaccurately labeled. I am having new correctly labeled graphics run. By Wednesday, I should have the correctly labeled Attachment A for you.

Please have Mr. Patterson and Ms. Jacobs sign the aviagation easement and return them to the City. Wayne has stated that, prior to placing this item on the Commission's February 1, 1993 agenda, we must have the signed document.

Gary Schindler

Gary Schindler

©Scanline Paper & Printing Co., Inc. 1987

Name: DAVID E. DISNEY, ESQUIRE

Address: 234 West New York Avenue DeLand, FL 32720

This Instrument Prepared by: DAVID E. DISNEY, ESQUIRE

Address: 234 West New York Avenue DeLand, FL 32720

Property Appraisers Parcel Identification (Folio) Number(s): 6026-01-00-0110

Grantee(s) S.S. #s: 268-48-2628

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR RECORDING DATA

This Warranty Deed Made the 18th day of December A.D. 1992 by VIRGINIA M. JACOBS, unmarried widow and surviving spouse of HUBERT HUDSON JACOBS a/k/a H. H. JACOBS, deceased, hereinafter called the grantor, to JAMES A. PATTERSON, III, whose post office address is 1830 Patterson Avenue, DeLand, FL 32724

hereinafter called the grantee:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

Witnesseth: That the grantor, for and in consideration of the sum of \$ -10.00- and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee all that certain land situate in Volusia County, State of Florida, viz: That part of Lots 13, 14 and 25 and all of Lots 11, 15 and 16, BLUE LAKE CELERY COMPANY'S SUBDIVISION AT DELAND, a subdivision according to map in Map Book 4, Page 171, Public Records of Volusia County, Florida, described as follows: Commence at the intersection of the center lines of Old Daytona Road and Marsh Road, said intersection being marked by a cross in the old brick road; run thence S 43°17'32" E, along the center line of Marsh Road as now laid out, a distance of 520.07 feet to its intersection with the North line of Lot 14, Blue Lake Celery Company Subdivision, aforesaid; thence S 89°46'28" W, along said North line, a distance of 41.06 feet to a point which is 30 feet, as measured at right angles, (CONTINUED ON BACK)

Together, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land, and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 1992.

In Witness Whereof, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

Signature: Theresa A. Rauschenberger

Printed Signature: THERESA A. RAUSCHENBERGER

Signature: Loriann Thompson

Printed Signature: LORIANN THOMPSON

Signature: _____

Printed Signature: _____

Signature: _____

Printed Signature: _____

STATE OF FLORIDA COUNTY OF VOLUSIA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared VIRGINIA M. JACOBS

to me known to be the person described in and who executed the foregoing instrument and she acknowledged before me that she executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 18th day of December, A.D. 1992.

Signature: Virginia M. Jacobs

Printed Signature: VIRGINIA M. JACOBS

Post Office Address: 1035 N. Hill Avenue, DeLand, FL 32724

Signature: _____

Printed Signature: _____

Post Office Address: _____

REC FEE \$ 10.50 REC'D PAYMENT AS INDICATED FOR CLASS
DOC ST \$ 1.00
INT TAX \$ _____ "C" INTANGIBLE & DOC
PENALTY \$ _____ STAMP TAXES SIGNED
INTEREST \$ _____

Signature: Theresa A. Rauschenberger

Printed Notary Signature: THERESA A. RAUSCHENBERGER

My Commission Expires: 07-18-96

OVER

OVER

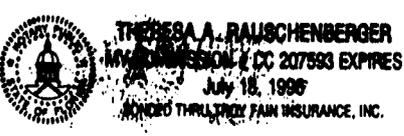
Handwritten mark

CLERK OF THE CIRCUIT & CITY COURT VOLUSIA CITY, FL.

1992 DEC 18 PM 3:42

FILED FOR RECORD RECORD VERIFIED

78814



Original to client cc to Mrs. Jacobs

Westerly of the center line of Marsh Road and the Point of Beginning; thence S 43°17'32" E and parallel with said center line, a distance of 643.07 feet; thence run S 46°42'28" W a distance of 315.87 feet; thence run N 40°13'53" W a distance of 90.0 feet; thence run S 49°46'07" W, a distance of 249.64 feet; thence run N 40°13'53" W a distance of 603.79 feet; thence run N 29°41'16" W a distance of 572.41 feet; thence run S 66°41'26" E a distance of 342.72 feet; thence run S 00°42'00" E a distance of 318.22 feet; thence run N 89°46'28" E a distance of 342.51 feet to the Point of Beginning.

BOOK PAGE
3795 0283

VOLUSIA CO., FL

RAMCO FORM 01

Warranty Deed

To

(C-A)

10.50
1001.00
1011.50
Rec'd -
Doc Stamps -
178814

CITY OF DELAND

DELAND, FLORIDA 32721



POST OFFICE DRAWER 449
TELEPHONE: (904) 736-3900
FAX: (904) 736-9819

September 23, 1992

Alex Ford, P.A.
Landis, Graham, French, Husfeld, Sherman
and Ford, P.A.
145 E. Rich Avenue
DeLand, FL 32724

RE: Virginia Jacobs property located on the NW corner of US 92
and Marsh Road, Parcel ID# 6026-01-00-0110

Dear Mr. Ford:

Per your request, I am providing a history of the annexation and zoning for the above referenced property. On June 9, 1989, the City annexed the above referenced property with a PD, Planned Development, zoning designation. Although the City approved a PD zoning designation at that time, the City did not approve a PD development order. On January 21, 1992, the City Commission approved a PD development order for this property, permitting a mixture of light industrial and heavy commercial land uses. This development order was recorded with Volusia County and dictates the type of development which may occur on this property. Until such time as the development order was approved, development of the property for industrial or commercial purposes was not permitted.

If you have any questions concerning this matter, please feel free to contact me at (904) 736-3900, extension 247.

Sincerely,

Gary Schindler, AICP
Planning Director

GS:nb

L\AFORD

City Commission Meeting
February 3, 1992

1. Preliminary Plat Approval, Phase I Marsh Point Business Park.

Mr. Schindler reported that on June 6, 1989, the City Commission annexed the subject property with a zoning classification of PD, planned development; however, the elements of the zoning were not delineated at that time.

On November 20, 1991, the Planning Board reviewed the sketch plat and PD rezoning applications for the subject property. On December 2, 1991, the City Commission reviewed the sketch plat and had no objections to the overall concept for development. On January 6, 1992, the applicant asked to have the second reading of the ordinance for the PD rezoning and development plan report continued until the January 21, 1992 City Commission meeting. The only unresolved issue was a revision to the list of permitted uses in the PD ordinance which has been revised by staff and the applicant. On January 21, 1992, the City Commission approved the second reading of the PD rezoning ordinance.

On January 15, 1992, the Planning Board reviewed the application for preliminary plat and felt that the developer had adequately addressed most of their concerns in the development plan and added conditions to the preliminary plat to further mitigate adverse impacts resulting from the development. The Planning Board members expressed their approval of the preliminary plat plans.

Per section 33-24(w), the preliminary plat application for Phase I shall be conditioned upon the approval of the PD rezoning. Per section 33-24(v), "Approval of a development plan and rezoning to the PD district shall not exempt the applicant from complying with all subdivision regulations or site plan review requirements. All subdivision plans shall be in conformance with the approved development plan, including any conditions or additions to the development plan made by the City Commission." Therefore, part of the task of reviewing this preliminary plat includes ensuring that the preliminary plat and subdivision applications are in compliance with one another. Staff feels that the proposed preliminary plat plan complies, on the whole, with the City's land development regulations, the PD development plan and rezoning.

Staff's primary concerns are related to wetland and tree preservation, but Phase II contains adequate areas for preservation. The developer will be required to preserve these areas until an assessment of the need for environmental mitigation is completed.

If constructed, the proposed development will increase the value of the property and add to the City's ad-valorem tax base.

CITY OF DELAND

DELAND, FLORIDA 32721



POST OFFICE DRAWER 449
TELEPHONE: (904) 736-3900
FAX: (904) 736-9819

January 28, 1992

Mr. Harold Watson
1171 Glenwood Road
DeLand, FL 32720

RE: Z-91-02-01, Rezoning and development plan for the Marsh Point Business Park Planned Development, located on the NW corner of US 92 and Marsh Road

Dear Mr. Watson:

At its regular meeting of January 21, 1992, the City Commission took official action to approve the PD zoning designation and development plan for the above referenced property. Enclosed is a copy of the Ordinance pertaining to this proposed development.

Based upon the concurrency requirements of the State of Florida and the City's intent to implement a concurrency management plan, approval of the PD zoning does not automatically provide vested development rights. At the time the developer applies for a development permit, adequate infrastructure must exist to support the proposed development. If such infrastructure does not exist, the developer may be required to incur additional expense to ensure that the necessary infrastructure is provided.

If you have any questions concerning this matter, please don't hesitate to contact me at 736-3900 extension 247.

Sincerely,

Gary Schindler, AICP
Planning Director

GS:emm

Enclosure

zone/Z9101L3

RECEIVED
JAN 27 1992

AN ORDINANCE OF THE CITY OF DELAND, FLORIDA CHANGING THE ZONING FROM R-4, URBAN SINGLE FAMILY RESIDENTIAL DISTRICT, TO PD, PLANNED DEVELOPMENT DISTRICT, ON DESCRIBED PROPERTY LOCATED NORTHWEST OF THE INTERSECTION OF MARSH ROAD AND U.S. 92/S.R. 600; APPROVING A DEVELOPMENT PLAN FOR THE MARSH POINT BUSINESS PARK, A PLANNED DEVELOPMENT CONSISTING OF APPROXIMATELY 22.07 ACRES OF PROPERTY; DIRECTING A CHANGE IN THE COMPREHENSIVE ZONING MAP; CONDITIONING FINAL DEVELOPMENT APPROVAL ON A DETERMINATION OF CAPACITY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Virginia Jacobs (hereinafter referred to as "the Applicant") owns a 22.07 acre parcel of land located Northwest of the intersection of Marsh Road and U.S. 92/S.R. 600, 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 land described in Exhibit "A" was annexed to the City on June 5, 1989 with an initial zoning designation of PD, Planned Development District, pending the approval of a development plan for the property pursuant to Section 33-24 of the Code of Ordinances of the City of DeLand (the "Code"); and

WHEREAS, the Applicant has applied for a change of zoning from the present zoning classification of R-4, Urban Single Family Residential, to PD, Planned Development District; and

WHEREAS, said rezoning as a PD District is consistent with both the City of DeLand Comprehensive Plan and the purpose and intent of Section 33-24; and

WHEREAS, the Applicant has submitted an application for approval of a development plan for the Marsh Point Business Park 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, intensity of development, open spaces, plazas and recreation, sidewalks, trails and bikeways, environmental constraints, internal access and circulation, external transportation access, off-street parking, public facilities and unified control;

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

Section 1. The City Commission has held a public hearing to confirm the initial zoning designation of the land described in Exhibit "A" and to approve the change of zoning from R-4, Urban Single Family Residential, 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 33-24 of the Code and the development of this property shall take place in accordance with that Section and in substantial compliance with the Development Plan Report and Maps submitted by the Applicant 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 Applicant 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 set forth in Section 5 below.

Section 5. The approved Development Plan for the Marsh Point Business Park is set forth below:

(a) Development Concept: The Applicant proposes to construct a business park consisting of approximately thirty (30) one-half (1/2) acre lots to be used for wholesale distribution, storage and limited light manufacturing purposes. The Applicant shall maintain unified ownership of the property until a final plat has been approved for areas to be subdivided. No lots or parcels of land shall be sold until a final plat encompassing the property to be conveyed has been approved for filing by the City; provided, however, that the Applicant shall have the right to sell the entire property described in Exhibit "A" to a single owner before final plat approval so long as said owner specifically agrees to be bound by all of the terms and conditions of this Ordinance and the Applicant agrees to have a sidewalk constructed on her other property on the East side of Marsh Road.

(b) Phases of Development: This project is projected to be developed in two phases over a five year period. The

first phase includes approximately seventeen (17) one-half (1/2) acre lots to be developed over three years. The second phase includes approximately thirteen (13) one-half (1/2) acre lots to be developed within the following two years. Specific conditions for permitting each phase shall be determined at the time of preliminary plat approval. As each phase is developed, the appropriate roadway and utility infrastructure including, but not limited to, water, sewer and stormwater facilities, shall be constructed in accordance with the master drainage, utility and roadway plans for the project, subject to approval of final engineering plans for each phase of development.

(c) Land Use and Intensity: The Marsh Point Business Park shall be limited to light industrial/wholesale commercial enterprises situated on one-half (1/2) acre lots with customary accessory uses, common drainage, traffic circulation and natural open space areas. The specific permitted uses are described on pages 7 - 10 of the Development Plan Report except that items 11, 15, 37, 38, 48, 50, 56, 65, 67, 73, 74, 84, 85, 87, 95, 96, 99, 103 and 113 shall not be permitted uses. Any outside storage (more than 48 hours) of vehicles, material, equipment and supplies shall be fully screened from public view; provided, however, that no vehicles shall be stored on the property for more than 90 days and no junk yard or auto salvage operations shall be permitted whatsoever. All retail sales shall be incidental to a primary wholesale commercial activity.

The development of the property shall be consistent with the limits described below for each land use area within the proposed PD; provided, however, that the Applicant shall have the right to reduce the net density of any given phase without having to amend the approved Development Plan for the project. The location and approximate size of the land use areas are shown on the Development Plan Maps and identified as separate phases.

MAXIMUM PERMITTED DENSITY

| | <u>Total Lots</u> | <u>Upland Areas</u> | <u>Net Density</u> | <u>Wetland Areas</u> | <u>Total Acreage</u> | <u>Gross Density</u> |
|--------------|-----------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Phase 1 | 17 | 12.076 | 1.408 | 0.060 | 12.136 | 1.401 |
| Phase 2 | 13 | 2.964 | 4.386 | 6.970 | 9.934 | 1.309 |
| TOTAL | 30^a | 15.04^b | 1.995^a | 7.03^c | 22.07^d | 1.359^a |

^aProject density shall be reduced if the net developable acreage is not sufficient to accommodate 30 one-half (1/2) acre lots plus common drainage, open space, roads, landscape buffers, tree protection, required mitigation areas, etc.

^bSubject to final determination of wetland limits.

*C*Preliminary estimate only. Actual wetland limits shall be determined before preliminary plat approval by the appropriate regulatory agencies.

*d*Includes 2.926 acres of roads, 1.156 acres of landscape buffers and 3.524 acres of drainage and conservation areas.

(d) Special Regulations: Notwithstanding any other provision of this Ordinance, no use shall be made of the property which interferes with the operation of airborne aircraft. The following special requirements shall apply to each permitted use:

- (1) All lights or illumination used in conjunction with streets, signs, parking areas and other uses of land or buildings shall be arranged and operated in such a manner that they are not misleading or dangerous to passing aircraft.
- (2) No operations shall produce smoke, glare or other visual hazards within three (3) statute miles of any usable runway.
- (3) No operations shall produce electronic interference with navigation signals or radio communications between the airport and passing aircraft.
- (4) There shall be no storage of explosive materials, assemblage of large groups of people or any other use that could produce a major catastrophe as a result of an aircraft crash.

(e) Common Areas: The Applicant shall create common drainage, natural open space, landscape buffers and conservation areas and retain unified ownership and control of all lands identified for such land uses; provided, however, that after the formation of a Property Owner's Association, said lands may be transferred to, owned and maintained by the Property Owner's Association.

(f) Environmental Considerations: Prior to preliminary plat approval, the Applicant shall engage an environmental consultant to: (1) determine the census of any endangered or threatened species (flora and fauna) on the property; (2) determine the location of such species; and, (3) provide documentation from the appropriate regulatory agency approving a plan to accommodate any such endangered or threatened species, whether on- or off-site.

In addition, the Applicant shall: (1) prepare a report on soil limitations; (2) identify any wetland vegetation; (3) develop a wetlands mitigation plan; and, (4) describe any plans to enhance the viability of wetland areas. As part of this report, the Applicant shall submit documentary evidence that all required permits for stormwater discharge, dredge

and fill and wetlands mitigation have been obtained from the appropriate regulatory agencies.

(g) Public Facilities: All necessary public facilities and services required to support the development of the property shall be available concurrent with the impacts of development. If the necessary public facilities and services are not available concurrent with the impacts of development, the Applicant may be required to bear the reasonable cost of providing same as a condition to preliminary or final plat approval. Potable water, sanitary sewer and solid waste service shall be provided by the City of DeLand upon approval of final engineering plans, completion of utility infrastructure and payment of the usual and customary fees.

(h) Stormwater Drainage: The development shall meet or exceed the requirements of the Stormwater Management and Conservation Ordinance, Chapter 25B of the Code, and any other applicable federal, state or local law or ordinance regulating stormwater management and wetlands protection.

(i) Roadways: The Applicant estimates that the Development Plan will not adversely affect the level of service on area roadways below the minimum acceptable levels of service. Nevertheless, the Applicant shall provide a left turn lane on Marsh Road for northbound traffic to the project entrance to prevent any peak hour traffic from backing up onto U.S. 92/S.R. 600. All roadways shall be constructed in compliance with the Subdivision Ordinance, Chapter 26A of the Code, and the State's Minimum Standards for Public Streets and Roads. All roads within the project shall be dedicated to the City of DeLand.

(j) Off-street Parking. The proposed parking standards for the development, as outlined in the Development Plan Report, meet or exceed minimum requirements.

(k) Sidewalks, Trails and Bikeways: The Applicant shall construct a four foot (4') wide sidewalk along the Applicant's property on the East side of Marsh Road to facilitate safe pedestrian access from U.S. 92 to the nearby residential areas. The Applicant shall provide for the perpetual maintenance of the sidewalk.

(l) Screening: The Applicant shall maintain a twenty foot (20') wide landscape buffer around the perimeter of the project along Old Daytona Road, Marsh Road, U.S. 92 and adjacent residential areas. This landscape buffer, together with the proposed building setback regulations described in the Development Plan Report, is deemed sufficient to satisfy the minimum perimeter setback requirements of Section 33-24 of the Code. In addition, the Applicant shall construct and maintain a seven foot (7') high fence along the side or rear lot lines of any lots where they abut residential areas and shall not permit the outside storage of any materials to

this paragraph.

Section 6. 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 7. 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 capacity.

Section 8. 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 9. This Ordinance shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 21st day of January, 1992.



Wiley M. Nash
Mayor-Commissioner

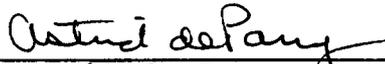
ATTEST:



Viola H. Ballentine
City Clerk - Auditor

Passed on first reading: December 16, 1991
Adopted on second reading: January 21, 1992

APPROVED AS TO FORM AND LEGALITY:



Astrid de Parry
City Attorney

exceed eight feet (8') high.

(m) Property Owner's Association: A Property Owner's Association shall be created by the Applicant to own, manage and maintain the common areas. The owner of each lot shall be a member of the Association and shall be liable for, with a lien securing payment of, annual and special assessments collected by the Association for the improvement, maintenance, enhancement, enlargement and operation of common areas, and for payment of taxes, governmental assessments, insurance, costs of materials, equipment, labor, professional services, management and supervision necessary to carry out the authorized functions of the Association, and for payment of principal, interest and other charges connected with loans made to or assumed by the Association.

The charter and bylaws of said Property Owner's Association and any amendments thereto or related agreements, covenants, easements or restrictions which relate to the terms and conditions of this Ordinance shall be furnished to the City for review and approval at least thirty (30) days before proposed execution and filing in the Official Records of Volusia County, Florida. The Applicant shall bear and pay the costs of recording all the aforesaid documents. The City shall not be responsible for enforcing the Declaration of Protective Covenants, Conditions and Restrictions for the Marsh Point Business Park or the Articles of Incorporation or By-Laws of the Association.

(n) Architectural Review Board: The Applicant shall create an Architectural Review Board. Prior to the construction of any buildings or accessory structures, all plans and specifications must have the prior approval of this Board. All regulations pertaining to the Architectural Review Board shall be at the sole discretion of the Applicant; provided, however, that the regulations shall be completely consistent with the requirements of this Ordinance. The City shall not be responsible for enforcing the regulations of the Architectural Review Board.

(o) Binding Effect of Plans; Recording: The provisions of the foregoing Development Plan including any and all supplementary orders and resolutions, shall bind and inure to the benefit of the Applicant and her heirs, personal representatives, executors, administrators, successors and assigns. A copy of this Ordinance and all subsequent orders and resolutions shall be filed for record in the Official Records of Volusia County, Florida.

(p) Reverter Provision: The City Commission may rezone any portion of the project which has not secured final plat approval on or before December 31, 1996 as may be necessary or appropriate to protect adjoining properties or the public health, safety and welfare, unless the City Commission, for good cause shown, shall extend the time period indicated in

COPY

AVIGATIONAL EASEMENT

THIS INDENTURE is made this _____ day of _____, 1992, by and between Harold L. Watson (hereinafter called "Grantor"), and the City of DeLand, a municipal corporation organized and existing under the laws of the State of Florida (hereinafter called "Grantee").

W I T N E S S E T H:

WHEREAS, Grantee is the owner and operator of the DeLand Municipal Airport located in Volusia County, Florida, and in close proximity to the land of Grantor as hereinafter described; and

WHEREAS, Grantee desires to obtain and preserve for the use and benefit of the general public a right of free and unobstructed flight for aircraft landing upon, taking off from or maneuvering about the Airport;

NOW, THEREFORE, in consideration of the sum of ten dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby grant, bargain, sell and convey to Grantee and its successors and assigns, for the use and benefit of the general public, an easement and right-of-way for the free and unobstructed passage of aircraft in and through the airspace which lies above an elevation of one hundred (100) feet above mean sea level (as determined by using the National Geodetic Vertical Datum of 1929), over and across Grantor's lands which are described as follows:

SEE EXHIBIT "A" ATTACHED HERETO.

Further, Grantor does hereby grant and convey to Grantee and its successors and assigns, a continuing right to keep the airspace above said elevation free and clear from any and all fences, crops, trees, poles, buildings and other obstructions of whatsoever kind or nature which now extend or which may at any time in the future extend above said elevation, together with the right of ingress to, egress from, and passage over the land of Grantor described above for the purpose of effecting and maintaining such clearance and of removing any and all obstructions which now or may hereafter extend above said elevation. Grantor further covenants that Grantor shall not hereafter construct, permit or suffer to remain upon said land any obstruction that extends above said elevation.

This Avigational Easement and all rights pertaining to it shall exist until the Airport is abandoned and is no longer used for airport purposes. This Avigational Easement shall be binding upon and shall inure to the benefit of the parties' heirs, successors and assigns.

EXECUTED this _____ day of _____, 1992.

WITNESSES:

GRANTOR:

Sign _____
Print _____

Sign _____
Print _____
Address: _____

Sign _____
Print _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 1992, by _____, who is personally known to me or who has produced _____ as identification and who did take an oath.

NOTARY PUBLIC

Sign _____
Print _____
State of Florida
at Large

My Commission Expires:

This Instrument Prepared By:

Astrid de Parry, City Attorney
City of DeLand
Post Office Drawer 449
DeLand, Florida 32721-0449

CA/MISC/WATSON



**DESCRIPTION OF AVIGATION EASEMENT FOR THE CITY OF DeLAND
WATSON PROPERTY**

January 25, 1992

Proj. Code 88074

All that part of Lots 13 thru 16, inclusive, and Lots 25 and 26, Blue Lake Celery Company Subdivision, as recorded in Map Book 4, Page 171, Public Records of Volusia County, Florida, described as follows: Commencing at a concrete monument at the southeast corner of said Lot 26, run thence S89°22'08"W along the south line thereof a distance of 97.00 feet to a point on the southeast line of an avigation easement, said point being the Point of Beginning; thence continue S89°22'08"W along the south line of said Lot 26 a distance of 358.85 feet to a point on the easterly right of way line of a canal; thence N40°13'53"W along said right of way line a distance of 1285.18 feet; thence N29°41'16"W along said right of way line a distance of 166.91 feet to a point on the northeast line of an avigation easement; thence S69°44'01"E along said line a distance of 1097.85 feet to a point on the westerly right of way line of Marsh Road; thence S43°17'32"E along said right of way line a distance of 493.37 feet to the point of curvature of a curve concave to the west having a central angle of 23°01'41" and a radius of 263.52 feet; thence run along the arc of said curve a distance of 105.91 feet to a point on the southeast line of an avigation easement; thence S27°23'29"W along said line a distance of 330.44 feet to the Point of Beginning; containing 15.08 acres, more or less.



ARTHUR W. STEINMAN & ASSOCIATES, INC.

professional land surveyors - engineering - planning

**DESCRIPTION OF AVIGATION EASEMENT FOR THE CITY OF DeLAND
WATSON PROPERTY**

January 25, 1992

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relationship bet. PD plan
and plats

Per 33-24 (a)

"The PD (planned development) district is intended to provide a method for consideration and approval of unique zoning districts for individual planned developments which are not provided for or allowed in the zoning districts otherwise established by the chapter. ... The standards and procedures are intended to promote flexibility of design and to permit planned diversification and integration of uses and structures, while at the same time reserving to the City Commission the absolute authority to establish limitations and regulations for the development deemed necessary to protect the public health, safety and welfare."

Per 33-24 (v)

647 * "approval of a development plan and rezoning to the PD district shall not exempt the applicant from complying with all subdivision regulations or site plan review req's." All subdivision plans and site plans shall be in conformance with the approved development plan, including any conditions or additions to the development plan made by the City Commission."

per 33-24 (w) simultaneous
submittals entire

33-24 (x) site plan phasing

CITY OF DELAND

DELAND, FLORIDA 32721



POST OFFICE DRAWER 449
TELEPHONE: (904) 736-3900
FAX: (904) 736-9819

January 22, 1992

Mr. Harold Watson
1171 Glenwood Road
DeLand, FL 32720

RE: Z-91-02-01, Rezoning and development plan for the Marsh Point Business Park Planned Development, located on the NW corner of US 92 and Marsh Road

Dear Mr. Watson:

At its regular meeting of January 21, 1992, the City Commission took official action to approve the PD zoning designation and development plan for the above referenced property. Enclosed is a copy of the Ordinance pertaining to this proposed development.

Based upon the concurrency requirements of the State of Florida and the City's intent to implement a concurrency management plan, approval of the PD zoning does not automatically provide vested development rights. At the time the developer applies for a development permit, adequate infrastructure must exist to support the proposed development. If such infrastructure does not exist, the developer may be required to incur additional expense to ensure that the necessary infrastructure is provided.

If you have any questions concerning this matter, please don't hesitate to contact me at 736-3900 extension 247.

Sincerely,

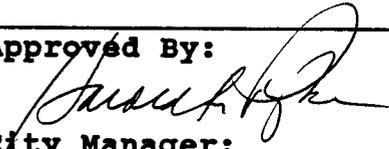

Gary Schindler, AICP
Planning Director

GS:emm

Enclosure

zone/Z9101L3

**CITY OF DeLand, FLORIDA
REQUEST FOR COMMISSION ACTION**

| | |
|--|---|
| Department: Planning | Attachments: |
| Subject: Development Order- Planned Development Zoning of Marsh Point Business Park located on the northwest corner of U.S. 92 & Marsh Road | <input checked="" type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Staff Report <input checked="" type="checkbox"/> Conditions of Approval <input checked="" type="checkbox"/> Location Map <input checked="" type="checkbox"/> Plans <input checked="" type="checkbox"/> Other (Dev Plan Report) |
| Prepared By:  | Approved By:  |
| Department Head: | City Manager: |

SUMMARY/HIGHLIGHT:

Mr. Harold Watson, the applicant, is applying for a Development Order to establish PD, planned development, zoning regulations for Marsh Point Business Park.

On April 19, 1989, the Planning Board recommended approval of the annexation of Marsh Point Business Park with a PD zoning designation and on June 6, 1989, the City Commission annexed the property. Since 67% of the property is located in the proposed airport clear zone, which prohibits residential development and large congregations of people, the light industrial zoning outlined in the development plan report is appropriate.

At their November 20, 1991, meeting the Planning Board reviewed the proposed Marsh Point Business Park. Although some concerns for surrounding property owners were discussed at length, the PD zoning was forwarded to the City Commission with conditional approval (See the attached sheet titled, "Conditions for PD zoning Development Order").

FISCAL IMPACT:

If constructed, the proposed development will increase the value of the property and add to the City's ad-valorem tax base.

RECOMMENDATION:

It is recommended that the Commission approve the development order for planned development zoning for Marsh Point Business Park, with conditions as recommended.

SUBJECT: PD Development Order Approval for the proposed Marsh Point Business Park.

BACKGROUND/DISCUSSION:

Since 67% of the site is located in the proposed airport clear zone, which prohibits residential development or development which would lead to large congregations of people, the heavy commercial, light industrial type zoning proposed by Mr. Watson is appropriate.

On November 20, 1991, the Planning Board reviewed the proposed Marsh Point Business Park. Although some concerns for surrounding property owners were discussed at length, the PD zoning was forwarded to the City Commission with conditional approval (See the attached sheet titled, "Conditions for PD zoning Development Order").

The following issues were raised both during the November 20, 1991 and June 6, 1989 Planning Board meetings:

1. The compatibility of industrial land use abutting the existing residential neighborhood.
2. The effect of noise, odor, and other factors generated from the proposed industrial development upon the existing residential neighborhood.
3. The effect of the FAA mandated clear zone upon the proposed development and its permitted uses.
4. The effect of the development of the property upon Little Haw Creek, and site itself.

After a discussion of these concerns on November 20, the Planning Board agreed that the developer had adequately addressed most of the concerns in the development plan and added conditions to the PD development order to further mitigate adverse impacts resulting from the development. The president of the DeLand Highlands Homeowner's Association attended the meeting and expressed her organization's support for the project. As a result of the discussion during the Planning Board meeting, the Planning Board members forwarded the application with a recommendation for approval.

| Commission Action: | Modification: |
|--|----------------------|
| <input type="checkbox"/> Approved As Recommended | |
| <input type="checkbox"/> Approved With Modifications | |
| <input type="checkbox"/> Disapproved | |
| <input type="checkbox"/> Continued-Date: | |

Conditions for PD zoning Development Order

The following conditions, which address the Planning Board members concerns, were recommended to the City Commission:

- 1) The developer will install a 4' wide sidewalk along the east side of Marsh Road between U.S. 92 and Old Daytona Road.
- 2) The developer will obtain any property along the east side of Marsh Road for required sidewalk installation.
- 3) The developer will provide the City with access and maintenance agreements for the sidewalk.
- 4) The developer will provide covenants and deed restrictions for lots 26, 27, and 30 which limit the height of any outdoor storage to 8' within 15' of the lot lines abutting residential land uses.
- 5) In the PD zoning order, provide wording which limits the height of any outdoor storage to 8' within 15' of the rear lot lines for lots 26, 27, and 30. This will give the City two modes of enforcement.
- 6) The developer will provide documentation from a professional wildlife biologist or environmental consultant which addresses the environmental concerns outlined in the staff report to the Planning Board (enclosed).

City Commission Meeting
January 21, 1992

Second Reading of Ordinances:

1. #92-1, PD Development, Marsh Point Business Park.

Ms. de Parry read the following ordinance by title only:

ORDINANCE 91-1

AN ORDINANCE OF THE CITY OF DELAND, FLORIDA CHANGING THE ZONING FROM R-4, URBAN SINGLE FAMILY RESIDENTIAL DISTRICT, TO PD, PLANNED DEVELOPMENT DISTRICT, ON DESCRIBED PROPERTY LOCATED NORTHWEST OF THE INTERSECTION OF MARSH ROAD AND U.S. 92/S.R. 600; APPROVING A DEVELOPMENT PLAN FOR THE MARSH POINT BUSINESS PARK, A PLANNED DEVELOPMENT CONSISTING OF APPROXIMATELY 22.07 ACRES OF PROPERTY; DIRECTING A CHANGE IN THE COMPREHENSIVE ZONING MAP; CONDITIONING FINAL DEVELOPMENT APPROVAL ON A DETERMINATION OF CAPACITY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Virginia Jacobs (hereinafter referred to as "the Applicant") owns a 22.07 acre parcel of land located Northwest of the intersection of Marsh Road and U.S. 92/S.R. 600, 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 land described in Exhibit "A" was annexed to the City on June 5, 1989 with an initial zoning designation of PD, Planned Development District, pending the approval of a development plan for the property pursuant to Section 33-24 of the Code of Ordinances of the City of DeLand (the "Code"); and

WHEREAS, the Applicant has applied for a change of zoning from the present zoning classification of R-4, Urban Single Family Residential, to PD, Planned Development District; and

WHEREAS, said rezoning as a PD District is consistent with both the City of DeLand Comprehensive Plan and the purpose and intent of Section 33-24; and

WHEREAS, the Applicant has submitted an application for approval of a development plan for the Marsh Point Business Park 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, intensity of development, open spaces, plazas and recreation, sidewalks, trails and bikeways, environmental constraints, internal access and circulation, external transportation access, off-street parking, public facilities and unified control;

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

City Commission Meeting
January 21, 1992

Section 1. The City Commission has held a public hearing to confirm the initial zoning designation of the land described in Exhibit "A" and to approve the change of zoning from R-4, Urban Single Family Residential, 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 33-24 of the Code and the development of this property shall take place in accordance with that Section and in substantial compliance with the Development Plan Report and Maps submitted by the Applicant 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 Applicant 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 set forth in Section 5 below.

Section 5. The approved Development Plan for the Marsh Point Business Park is set forth below:

(a) Development Concept: The Applicant proposes to construct a business park consisting of approximately thirty (30) one-half (1/2) acre lots to be used for wholesale distribution, storage and limited light manufacturing purposes. The Applicant shall maintain unified ownership of the property until a final plat has been approved for areas to be subdivided. No lots or parcels of land shall be sold until a final plat encompassing the property to be conveyed has been approved for filing by the City; provided, however, that the Applicant shall have the right to sell the entire property described in Exhibit "A" to a single owner before final plat approval so long as said owner specifically agrees to be bound by all of the terms and conditions of this Ordinance and the Applicant agrees to have a sidewalk constructed on her other property on the East side of Marsh Road.

(b) Phases of Development: This project is projected to be developed in two phases over a five year period. The first phase includes approximately seventeen (17) one-half (1/2) acre lots to be developed over three years. The second phase includes approximately thirteen (13) one-half (1/2) acre lots to be developed within the following two years. Specific conditions for permitting each phase shall be determined at the time of preliminary plat approval. As each phase is developed, the appropriate roadway and utility infrastructure including, but not limited to, water, sewer and stormwater facilities, shall be constructed in accordance with the master drainage, utility and roadway plans for the project, subject to approval of final engineering plans for each phase of development.

(c) Land Use and Intensity: The Marsh Point Business Park shall be limited to light industrial/wholesale commercial enterprises situated on one-half (1/2) acre lots with customary accessory uses, common drainage, traffic circulation and natural open space areas. The specific permitted uses are described on pages 7 - 10 of the Development Plan Report except that items 11, 15, 37, 38, 48, 50, 56, 65, 67, 73, 74, 84, 85, 87, 95, 96, 99, 103 and 113 shall not be permitted uses. Any outside storage (more than 48 hours) of vehicles, material, equipment and supplies shall be fully screened from public view; provided, however, that no vehicles shall be stored on the property for more than 90 days and no junk yard or auto salvage operations shall be permitted whatsoever. All retail sales shall be incidental to a primary wholesale commercial activity.

The development of the property shall be consistent with the limits described below for each land use area within the proposed PD; provided, however, that the Applicant shall have the right to reduce the net density of any given phase without having to amend the approved Development Plan for the project. The location and approximate size of the land use areas are shown on the Development Plan Maps and identified as separate phases.

MAXIMUM PERMITTED DENSITY

| | Total Lots | Upland Areas | Net Density | Wetland Areas | Total Acreage | Gross Density |
|---------|-----------------|--------------------|--------------------|-------------------|--------------------|--------------------|
| Phase 1 | 17 | 12.076 | 1.408 | 0.060 | 12.136 | 1.401 |
| Phase 2 | 13 | 2.964 | 4.386 | 6.970 | 9.934 | 1.309 |
| TOTAL | 30 ^a | 15.04 ^b | 1.995 ^a | 7.03 ^c | 22.07 ^d | 1.359 ^a |

a *Project density shall be reduced if the net developable acreage is not sufficient to accommodate 30 one-half (1/2) acre lots plus common drainage, open space, roads, landscape buffers, tree protection, required mitigation areas, etc.*

b *Subject to final determination of wetland limits.*

c *Preliminary estimate only. Actual wetland limits shall be determined before preliminary plat approval by the appropriate regulatory agencies.*

d *Includes 2.926 acres of roads, 1.156 acres of landscape buffers and 3.524 acres of drainage and conservation areas.*

(d) Special Regulations: Notwithstanding any other provision of this Ordinance, no use shall be made of the property which interferes with the operation of airborne aircraft. The following special requirements shall apply to each permitted use:

- (1) All lights or illumination used in conjunction with streets, signs, parking areas and other uses of land or buildings shall be arranged and operated in such a manner that they are not misleading or dangerous to passing aircraft.

City Commission Meeting
January 21, 1992

- (2) No operations shall produce smoke, glare or other visual hazards within three (3) statute miles of any usable runway.
- (3) No operations shall produce electronic interference with navigation signals or radio communications between the airport and passing aircraft.
- (4) There shall be no storage of explosive materials, assemblage of large groups of people or any other use that could produce a major catastrophe as a result of an aircraft crash.

(e) Common Areas: The Applicant shall create common drainage, natural open space, landscape buffers and conservation areas and retain unified ownership and control of all lands identified for such land uses; provided, however, that after the formation of a Property Owner's Association, said lands may be transferred to, owned and maintained by the Property Owner's Association.

(f) Environmental Considerations: Prior to preliminary plat approval, the Applicant shall engage an environmental consultant to: (1) determine the census of any endangered or threatened species (flora and fauna) on the property; (2) determine the location of such species; and, (3) provide documentation from the appropriate regulatory agency approving a plan to accommodate any such endangered or threatened species, whether on- or off-site.

In addition, the Applicant shall: (1) prepare a report on soil limitations; (2) identify any wetland vegetation; (3) develop a wetlands mitigation plan; and, (4) describe any plans to enhance the viability of wetland areas. As part of this report, the Applicant shall submit documentary evidence that all required permits for stormwater discharge, dredge and fill and wetlands mitigation have been obtained from the appropriate regulatory agencies.

(g) Public Facilities: All necessary public facilities and services required to support the development of the property shall be available concurrent with the impacts of development. If the necessary public facilities and services are not available concurrent with the impacts of development, the Applicant may be required to bear the reasonable cost of providing same as a condition to preliminary or final plat approval. Potable water, sanitary sewer and solid waste service shall be provided by the City of DeLand upon approval of final engineering plans, completion of utility infrastructure and payment of the usual and customary fees.

(h) Stormwater Drainage: The development shall meet or exceed the requirements of the Stormwater Management and Conservation Ordinance, Chapter 25B of the Code, and any other applicable federal, state or local law or ordinance regulating stormwater management and wetlands protection.

(i) Roadways: The Applicant estimates that the Development Plan will not adversely affect the level of service on area roadways below the minimum acceptable levels of service. Nevertheless, the Applicant shall provide a left turn lane on Marsh Road for northbound traffic to the project entrance to prevent any peak hour traffic from backing up onto U.S. 92/S.R. 600. All

City Commission Meeting
January 21, 1992

roadways shall be constructed in compliance with the Subdivision Ordinance, Chapter 26A of the Code, and the State's Minimum Standards for Public Streets and Roads. All roads within the project shall be dedicated to the City of DeLand.

(j) Off-street Parking. The proposed parking standards for the development, as outlined in the Development Plan Report, meet or exceed minimum requirements.

(k) Sidewalks, Trails and Bikeways: The Applicant shall construct a four foot (4') wide sidewalk along the Applicant's property on the East side of Marsh Road to facilitate safe pedestrian access from U.S. 92 to the nearby residential areas. The Applicant shall provide for the perpetual maintenance of the sidewalk.

(l) Screening: The Applicant shall maintain a twenty foot (20') wide landscape buffer around the perimeter of the project along Old Daytona Road, Marsh Road, U.S. 92 and adjacent residential areas. This landscape buffer, together with the proposed building setback regulations described in the Development Plan Report, is deemed sufficient to satisfy the minimum perimeter setback requirements of Section 33-24 of the Code. In addition, the Applicant shall construct and maintain a seven foot (7') high fence along the side or rear lot lines of any lots where they abut residential areas and shall not permit the outside storage of any materials to exceed eight feet (8') high.

(m) Property Owner's Association: A Property Owner's Association shall be created by the Applicant to own, manage and maintain the common areas. The owner of each lot shall be a member of the Association and shall be liable for, with a lien securing payment of, annual and special assessments collected by the Association for the improvement, maintenance, enhancement, enlargement and operation of common areas, and for payment of taxes, governmental assessments, insurance, costs of materials, equipment, labor, professional services, management and supervision necessary to carry out the authorized functions of the Association, and for payment of principal, interest and other charges connected with loans made to or assumed by the Association.

The charter and bylaws of said Property Owner's Association and any amendments thereto or related agreements, covenants, easements or restrictions which relate to the terms and conditions of this Ordinance shall be furnished to the City for review and approval at least thirty (30) days before proposed execution and filing in the Official Records of Volusia County, Florida. The Applicant shall bear and pay the costs of recording all the aforesaid documents. The City shall not be responsible for enforcing the Declaration of Protective Covenants, Conditions and Restrictions for the Marsh Point Business Park or the Articles of Incorporation or By-Laws of the Association.

(n) Architectural Review Board: The Applicant shall create an Architectural Review Board. Prior to the construction of any buildings or accessory structures, all plans and specifications must have the prior approval of this Board. All regulations pertaining to the Architectural Review Board shall be at the sole discretion of the Applicant; provided, however, that the regulations shall be completely consistent with the requirements of this Ordinance. The City shall not be responsible for enforcing the regulations of the Archi-

City Commission Meeting
January 21, 1992

tectural Review Board.

(o) Binding Effect of Plans; Recording: The provisions of the foregoing Development Plan including any and all supplementary orders and resolutions, shall bind and inure to the benefit of the Applicant and her heirs, personal representatives, executors, administrators, successors and assigns. A copy of this Ordinance and all subsequent orders and resolutions shall be filed for record in the Official Records of Volusia County, Florida.

(p) Reverter Provision: The City Commission may rezone any portion of the project which has not secured final plat approval on or before December 31, 1996 as may be necessary or appropriate to protect adjoining properties or the public health, safety and welfare, unless the City Commission, for good cause shown, shall extend the time period indicated in this paragraph.

Section 6. 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 7. 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 capacity.

Section 8. 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 9. This Ordinance shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 21st day of January, 1991.

s/Wiley M. Nash
Mayor-Commissioner

ATTEST:
s/Judith G. Caron
Deputy City Clerk

Passed on first reading: December 16, 1991
Adopted on second reading: January 21, 1992

APPROVED AS TO FORM AND LEGALITY:
s/Astrid de Parry
City Attorney

Ms. Caron reported that this is the second reading of the ordinance which was passed on first reading at the meeting held on December 16, 1991, and has been published as required by law. At the petitioner's request, the Commission continued this item from the meeting held on January 6, 1992.

City Commission Meeting
January 21, 1992

It was recommended that the Commission adopt the ordinance.

Mayor Nash opened the public hearing. There being no comments, the public hearing was closed.

A motion was made by Commissioner Rigsby to adopt the ordinance. Commissioner Disney seconded the motion which carried by the following roll call vote:

| | |
|---------------------|-----|
| Commissioner Disney | Yes |
| Commissioner Bright | Yes |
| Commissioner Bollum | Yes |
| Commissioner Rigsby | Yes |
| Mayor Nash | Yes |

ORDINANCE 92-1

AN ORDINANCE OF THE CITY OF DELAND, FLORIDA CHANGING THE ZONING FROM R-4, URBAN SINGLE FAMILY RESIDENTIAL DISTRICT, TO PD, PLANNED DEVELOPMENT DISTRICT, ON DESCRIBED PROPERTY LOCATED NORTHWEST OF THE INTERSECTION OF MARSH ROAD AND U.S. 92/S.R. 600; APPROVING A DEVELOPMENT PLAN FOR THE MARSH POINT BUSINESS PARK, A PLANNED DEVELOPMENT CONSISTING OF APPROXIMATELY 22.07 ACRES OF PROPERTY; DIRECTING A CHANGE IN THE COMPREHENSIVE ZONING MAP; CONDITIONING FINAL DEVELOPMENT APPROVAL ON A DETERMINATION OF CAPACITY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Virginia Jacobs (hereinafter referred to as "the Applicant") owns a 22.07 acre parcel of land located Northwest of the intersection of Marsh Road and U.S. 92/S.R. 600, 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 land described in Exhibit "A" was annexed to the City on June 5, 1989 with an initial zoning designation of PD, Planned Development District, pending the approval of a development plan for the property pursuant to Section 33-24 of the Code of Ordinances of the City of DeLand (the "Code"); and

WHEREAS, the Applicant has applied for a change of zoning from the present zoning classification of R-4, Urban Single Family Residential, to PD, Planned Development District; and

WHEREAS, said rezoning as a PD District is consistent with both the City of DeLand Comprehensive Plan and the purpose and intent of Section 33-24; and

WHEREAS, the Applicant has submitted an application for approval of a development plan for the Marsh Point Business Park 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, intensity of development, open spaces, plazas and recreation, sidewalks, trails and bikeways, environmental constraints, internal access and circulation, external transportation access, off-street parking, public facilities and unified control;

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

Section 1. The City Commission has held a public hearing to confirm the initial zoning designation of the land described in Exhibit "A" and to approve the change of zoning from R-4, Urban Single Family Residential, 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 33-24 of the Code and the development of this property shall take place in accordance with that Section and in substantial compliance with the Development Plan Report and Maps submitted by the Applicant 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 Applicant 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 set forth in Section 5 below.

Section 5. The approved Development Plan for the Marsh Point Business Park is set forth below:

(a) Development Concept: The Applicant proposes to construct a business park consisting of approximately thirty (30) one-half (1/2) acre lots to be used for wholesale distribution, storage and limited light manufacturing purposes. The Applicant shall maintain unified ownership of the property until a final plat has been approved for areas to be subdivided. No lots or parcels of land shall be sold until a final plat encompassing the property to be conveyed has been approved for filing by the City; provided, however, that the Applicant shall have the right to sell the entire property described in Exhibit "A" to a single owner before final plat approval so long as said owner specifically agrees to be bound by all of the terms and conditions of this Ordinance and the Applicant agrees to have a sidewalk constructed on her other property on the East side of Marsh Road.

(b) Phases of Development: This project is projected to be developed in two phases over a five year period. The

first phase includes approximately seventeen (17) one-half (1/2) acre lots to be developed over three years. The second phase includes approximately thirteen (13) one-half (1/2) acre lots to be developed within the following two years. Specific conditions for permitting each phase shall be determined at the time of preliminary plat approval. As each phase is developed, the appropriate roadway and utility infrastructure including, but not limited to, water, sewer and stormwater facilities, shall be constructed in accordance with the master drainage, utility and roadway plans for the project, subject to approval of final engineering plans for each phase of development.

(c) Land Use and Intensity: The Marsh Point Business Park shall be limited to light industrial/wholesale commercial enterprises situated on one-half (1/2) acre lots with customary accessory uses, common drainage, traffic circulation and natural open space areas. The specific permitted uses are described on pages 7 - 10 of the Development Plan Report except that items 11, 15, 37, 38, 48, 50, 56, 65, 67, 73, 74, 84, 85, 87, 95, 96, 99, 103 and 113 shall not be permitted uses. Any outside storage (more than 48 hours) of vehicles, material, equipment and supplies shall be fully screened from public view; provided, however, that no vehicles shall be stored on the property for more than 90 days and no junk yard or auto salvage operations shall be permitted whatsoever. All retail sales shall be incidental to a primary wholesale commercial activity.

The development of the property shall be consistent with the limits described below for each land use area within the proposed PD; provided, however, that the Applicant shall have the right to reduce the net density of any given phase without having to amend the approved Development Plan for the project. The location and approximate size of the land use areas are shown on the Development Plan Maps and identified as separate phases.

MAXIMUM PERMITTED DENSITY

| | <u>Total Lots</u> | <u>Upland Areas</u> | <u>Net Density</u> | <u>Wetland Areas</u> | <u>Total Acreage</u> | <u>Gross Density</u> |
|---------|-----------------------|-------------------------|------------------------|--------------------------|--------------------------|--------------------------|
| Phase 1 | 17 | 12.076 | 1.408 | 0.060 | 12.136 | 1.401 |
| Phase 2 | 13 | 2.964 | 4.386 | 6.970 | 9.934 | 1.309 |
| TOTAL | 30 ^a | 15.04 ^b | 1.995 ^a | 7.03 ^c | 22.07 ^d | 1.359 ^a |

^aProject density shall be reduced if the net developable acreage is not sufficient to accommodate 30 one-half (1/2) acre lots plus common drainage, open space, roads, landscape buffers, tree protection, required mitigation areas, etc.

^bSubject to final determination of wetland limits.

*C*Preliminary estimate only. Actual wetland limits shall be determined before preliminary plat approval by the appropriate regulatory agencies.

*d*Includes 2.926 acres of roads, 1.156 acres of landscape buffers and 3.524 acres of drainage and conservation areas.

(d) Special Regulations: Notwithstanding any other provision of this Ordinance, no use shall be made of the property which interferes with the operation of airborne aircraft. The following special requirements shall apply to each permitted use:

- (1) All lights or illumination used in conjunction with streets, signs, parking areas and other uses of land or buildings shall be arranged and operated in such a manner that they are not misleading or dangerous to passing aircraft.
- (2) No operations shall produce smoke, glare or other visual hazards within three (3) statute miles of any usable runway.
- (3) No operations shall produce electronic interference with navigation signals or radio communications between the airport and passing aircraft.
- (4) There shall be no storage of explosive materials, assemblage of large groups of people or any other use that could produce a major catastrophe as a result of an aircraft crash.

(e) Common Areas: The Applicant shall create common drainage, natural open space, landscape buffers and conservation areas and retain unified ownership and control of all lands identified for such land uses; provided, however, that after the formation of a Property Owner's Association, said lands may be transferred to, owned and maintained by the Property Owner's Association.

(f) Environmental Considerations: Prior to preliminary plat approval, the Applicant shall engage an environmental consultant to: (1) determine the census of any endangered or threatened species (flora and fauna) on the property; (2) determine the location of such species; and, (3) provide documentation from the appropriate regulatory agency approving a plan to accommodate any such endangered or threatened species, whether on- or off-site.

In addition, the Applicant shall: (1) prepare a report on soil limitations; (2) identify any wetland vegetation; (3) develop a wetlands mitigation plan; and, (4) describe any plans to enhance the viability of wetland areas. As part of this report, the Applicant shall submit documentary evidence that all required permits for stormwater discharge, dredge

and fill and wetlands mitigation have been obtained from the appropriate regulatory agencies.

(g) Public Facilities: All necessary public facilities and services required to support the development of the property shall be available concurrent with the impacts of development. If the necessary public facilities and services are not available concurrent with the impacts of development, the Applicant may be required to bear the reasonable cost of providing same as a condition to preliminary or final plat approval. Potable water, sanitary sewer and solid waste service shall be provided by the City of DeLand upon approval of final engineering plans, completion of utility infrastructure and payment of the usual and customary fees.

(h) Stormwater Drainage: The development shall meet or exceed the requirements of the Stormwater Management and Conservation Ordinance, Chapter 25B of the Code, and any other applicable federal, state or local law or ordinance regulating stormwater management and wetlands protection.

(i) Roadways: The Applicant estimates that the Development Plan will not adversely affect the level of service on area roadways below the minimum acceptable levels of service. Nevertheless, the Applicant shall provide a left turn lane on Marsh Road for northbound traffic to the project entrance to prevent any peak hour traffic from backing up onto U.S. 92/S.R. 600. All roadways shall be constructed in compliance with the Subdivision Ordinance, Chapter 26A of the Code, and the State's Minimum Standards for Public Streets and Roads. All roads within the project shall be dedicated to the City of DeLand.

(j) Off-street Parking. The proposed parking standards for the development, as outlined in the Development Plan Report, meet or exceed minimum requirements.

(k) Sidewalks, Trails and Bikeways: The Applicant shall construct a four foot (4') wide sidewalk along the Applicant's property on the East side of Marsh Road to facilitate safe pedestrian access from U.S. 92 to the nearby residential areas. The Applicant shall provide for the perpetual maintenance of the sidewalk.

(l) Screening: The Applicant shall maintain a twenty foot (20') wide landscape buffer around the perimeter of the project along Old Daytona Road, Marsh Road, U.S. 92 and adjacent residential areas. This landscape buffer, together with the proposed building setback regulations described in the Development Plan Report, is deemed sufficient to satisfy the minimum perimeter setback requirements of Section 33-24 of the Code. In addition, the Applicant shall construct and maintain a seven foot (7') high fence along the side or rear lot lines of any lots where they abut residential areas and shall not permit the outside storage of any materials to

exceed eight feet (8') high.

(m) Property Owner's Association: A Property Owner's Association shall be created by the Applicant to own, manage and maintain the common areas. The owner of each lot shall be a member of the Association and shall be liable for, with a lien securing payment of, annual and special assessments collected by the Association for the improvement, maintenance, enhancement, enlargement and operation of common areas, and for payment of taxes, governmental assessments, insurance, costs of materials, equipment, labor, professional services, management and supervision necessary to carry out the authorized functions of the Association, and for payment of principal, interest and other charges connected with loans made to or assumed by the Association.

The charter and bylaws of said Property Owner's Association and any amendments thereto or related agreements, covenants, easements or restrictions which relate to the terms and conditions of this Ordinance shall be furnished to the City for review and approval at least thirty (30) days before proposed execution and filing in the Official Records of Volusia County, Florida. The Applicant shall bear and pay the costs of recording all the aforesaid documents. The City shall not be responsible for enforcing the Declaration of Protective Covenants, Conditions and Restrictions for the Marsh Point Business Park or the Articles of Incorporation or By-Laws of the Association.

(n) Architectural Review Board: The Applicant shall create an Architectural Review Board. Prior to the construction of any buildings or accessory structures, all plans and specifications must have the prior approval of this Board. All regulations pertaining to the Architectural Review Board shall be at the sole discretion of the Applicant; provided, however, that the regulations shall be completely consistent with the requirements of this Ordinance. The City shall not be responsible for enforcing the regulations of the Architectural Review Board.

(o) Binding Effect of Plans; Recording: The provisions of the foregoing Development Plan including any and all supplementary orders and resolutions, shall bind and inure to the benefit of the Applicant and her heirs, personal representatives, executors, administrators, successors and assigns. A copy of this Ordinance and all subsequent orders and resolutions shall be filed for record in the Official Records of Volusia County, Florida.

(p) Reverter Provision: The City Commission may rezone any portion of the project which has not secured final plat approval on or before December 31, 1996 as may be necessary or appropriate to protect adjoining properties or the public health, safety and welfare, unless the City Commission, for good cause shown, shall extend the time period indicated in

this paragraph.

Section 6. 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 7. 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 capacity.

Section 8. 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 9. This Ordinance shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 21st day of January, 1992.



Wiley M. Nash
Mayor-Commissioner

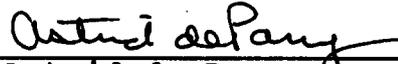
ATTEST:



Viola H. Ballentine
City Clerk - Auditor

Passed on first reading: December 16, 1991
Adopted on second reading: January 21, 1992

APPROVED AS TO FORM AND LEGALITY:



Astrid de Parry
City Attorney

VOLUSIA CO., FL

AN ORDINANCE ANNEXING INTO THE CITY OF DeLAND APPROXIMATELY 23.02 ACRES OF PROPERTY LOCATED AT THE NORTHWEST CORNER OF US-92 AND MARSH ROAD, AMENDING CITY BOUNDARIES AND ZONING MAP TO INCLUDE THE ANNEXED PROPERTY AS PD, PLANNED DEVELOPMENT DISTRICT; AFFIRMING COMPLIANCE WITH STATUTORY PROCEDURE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF DeLAND, FLORIDA:

Section 1. The following described parcel of land in Volusia County, Florida, owned by Virginia M. Jacobs and located at the northwest corner of US-92 and Marsh Road and consisting of approximately 23.02 acres of property, is hereby annexed and made part of the City of DeLand, subject to the jurisdiction, obligations, benefits and privileges of property within the municipality:

All of Lots 11, 15 and 16 and that part of Lots 13, 14, 25 and 26, lying westerly of Marsh Road as now laid out, and the south 1/2 of a 40 foot wide unnamed road lying north of and adjacent to said Lots 14 and 15 and westerly of Marsh Road and the west 1/2 of a 40 foot wide unnamed road lying east of and adjacent to said Lots 11 and 16, and southerly of Old Daytona Road, as shown on the Plat of Blue Lake Celery Company Subdivision, according to the Plat recorded in Map Book 4, Page 171, Public Records of Volusia County, being more particularly described as follows:

Commence at the intersection of the centerlines of Old Daytona Road and Marsh Road, said intersection being marked by a cross in the Old Brick Road; run thence S 43d17'32" E, along the centerline of Marsh Road as now laid out, a distance of 492.70 feet to its intersection with the easterly extension of the south line of Lot 1, First Addition to DeLand Highlands, according to the plat recorded in Map Book 19, Page 23, Public Records of Volusia County, Florida; thence S 89d46'28" W, along said south line, a distance of 41.06 feet to the southeast corner of said Lot 1 and the Point of Beginning; thence S 43d17'32" E, and parallel with the centerline of Marsh Road, as now laid out and

L. J. Smith
CLERK CIRCUIT COURT
VOLUSIA CO., FL
89 JUN 13 PM 1:01
FILED FOR RECORD
RECORD VERIFIED
077203

occupies a distance of 1278.45 feet to the point of curvature of a curve which is concave west having a radius of 263.52 feet and a central angle of 43d22'09"; thence along the arc of said curve, a distance of 199.47 feet to the Point of Tangency thereof; thence S 00d04'38"W, and parallel with the aforesaid centerline, a distance of 166.50 feet to the northerly right-of-way line of U.S. Highway 92; Thence S 63d13'48"W, along said right-of-way line, a distance of 75.86 feet to a point on the south line of Lot 26, aforesaid; Thence S 89d22'08" W, along said south line, a distance of 459.24 feet to a point on the easterly right-of-way line of that certain canal as shown on the aforesaid plat of Blue Lake Celery Company subdivision; Thence N 40d13'53" W, along said right-of-way line, a distance of 1285.18 feet; Thence N 29d41'16" W, along said right-of-way line, a distance of 572.41 feet to a point on the southerly right-of-way line of Old Daytona Road; Thence N 66d41'26" E, along said right-of-way line, a distance of 364.39 feet to the northwest corner of Lot 4, First Addition to DeLand Highlands, aforesaid; Thence S 00d42'00" E, along the West line of Lots 2, 3 and 4, First Addition to DeLand Highlands, a distance of 306.72 feet to the southwest corner of said Lot 2; Thence N 89d46'28" E, along the south line of Lots 1 and 2, aforesaid, a distance of 392.50 feet to the Point of Beginning; said parcel containing 23.02 acres, more or less; subject to right-of-ways and easements of record.

Section 2. The boundary lines of the City of DeLand are hereby changed and redefined to include the land described in the legal description contained in Section 1 above.

Section 3. The zoning map of the City of DeLand is hereby amended to zone the above-described parcel as PD, Planned Development District.

Section 4. It is hereby found that Section 3 above is in compliance with Florida Statutes Section 171.062(2).

Section 5. The City Commission finds that a public hearing has been held on this ordinance prior to adoption in the Commission Chambers, City Hall, DeLand, Florida, at 7:00

P.M., June 5, 1989, after notice published in accordance with Florida Statutes Section 171.044.

Section 6. This ordinance shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 5th day of June, 1989.

Wiley M. Nash

Wiley M. Nash
Mayor-Commissioner

ATTEST:

Viola H. Ballentine

Viola H. Ballentine
City Clerk - Auditor

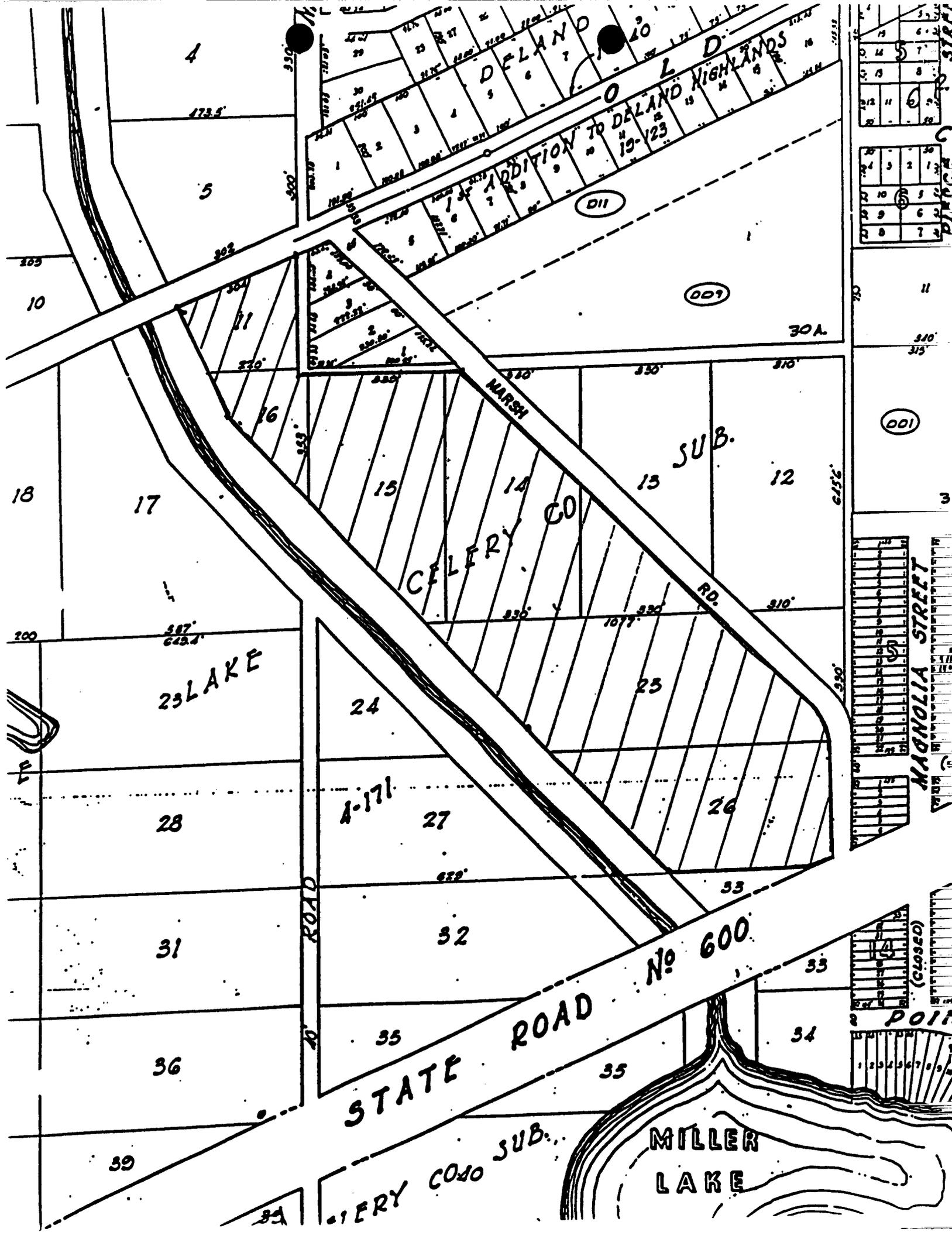
Passed on first reading: May 1, 1989
Adopted on second reading: June 5, 1989

APPROVED AS TO FORM AND LEGALITY:

Astrid de Parry

Astrid de Parry
City Attorney

BOOK PAGE
3816 1869
VOLUSIA CO. FL



4

473.5'

5

10

18

17

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23 LAKE

28

31

36

39

DELAND HIGHLANDS
ADDITION TO DELAND HIGHLANDS
19-123

(011)

(009)

30A

16

15

14

13

12

CELERY CO

SUB.

24

25

A-171

27

26

32

33

35

STATE ROAD No 600

33

34

CELERY CO SUB.

MILLER LAKE

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| 25 | 16 | 17 | 18 |
| 26 | 19 | 20 | 21 |
| 27 | 22 | 23 | 24 |

(001)

MAGNOLIA STREET

(CLOSED)

POINT

ORDINANCE 91-

Gary
RECEIVED
JAN 15 1992

AN ORDINANCE OF THE CITY OF DELAND, FLORIDA CHANGING THE ZONING FROM R-4, URBAN SINGLE FAMILY RESIDENTIAL DISTRICT, TO PD, PLANNED DEVELOPMENT DISTRICT, ON DESCRIBED PROPERTY LOCATED NORTHWEST OF THE INTERSECTION OF MARSH ROAD AND U.S. 92/S.R. 600; APPROVING A DEVELOPMENT PLAN FOR THE MARSH POINT BUSINESS PARK, A PLANNED DEVELOPMENT CONSISTING OF APPROXIMATELY 22.07 ACRES OF PROPERTY; DIRECTING A CHANGE IN THE COMPREHENSIVE ZONING MAP; CONDITIONING FINAL DEVELOPMENT APPROVAL ON A DETERMINATION OF CAPACITY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Virginia Jacobs (hereinafter referred to as "the Applicant") owns a 22.07 acre parcel of land located Northwest of the intersection of Marsh Road and U.S. 92/S.R. 600, 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 land described in Exhibit "A" was annexed to the City on June 5, 1989 with an initial zoning designation of PD, Planned Development District, pending the approval of a development plan for the property pursuant to Section 33-24 of the Code of Ordinances of the City of DeLand (the "Code"); and

WHEREAS, the Applicant has applied for a change of zoning from the present zoning classification of R-4, Urban Single Family Residential, to PD, Planned Development District; and

WHEREAS, said rezoning as a PD District is consistent with both the City of DeLand Comprehensive Plan and the purpose and intent of Section 33-24; and

WHEREAS, the Applicant has submitted an application for approval of a development plan for the Marsh Point Business Park 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, intensity of development, open spaces, plazas and recreation, sidewalks, trails and bikeways, environmental constraints, internal access and circulation, external transportation access, off-street parking, public facilities and unified control;

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

Section 1. The City Commission has held a public hearing to confirm the initial zoning designation of the land described in Exhibit "A" and to approve the change of zoning from R-4, Urban Single Family Residential, 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 33-24 of the Code and the development of this property shall take place in accordance with that Section and in substantial compliance with the Development Plan Report and Maps submitted by the Applicant 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 Applicant 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 set forth in Section 5 below.

Section 5. The approved Development Plan for the Marsh Point Business Park is set forth below:

(a) Development Concept: The Applicant proposes to construct a business park consisting of approximately thirty (30) one-half (1/2) acre lots to be used for wholesale distribution, storage and limited light manufacturing purposes. The Applicant shall maintain unified ownership of the property until a final plat has been approved for areas to be subdivided. No lots or parcels of land shall be sold until a final plat encompassing the property to be conveyed has been approved for filing by the City; provided, however, that the Applicant shall have the right to sell the entire property described in Exhibit "A" to a single owner before final plat approval so long as said owner specifically agrees to be bound by all of the terms and conditions of this Ordinance and the Applicant agrees to have a sidewalk constructed on her other property on the East side of Marsh Road.

(b) Phases of Development: This project is projected to be developed in two phases over a five year period. The

first phase includes approximately seventeen (17) one-half (1/2) acre lots to be developed over three years. The second phase includes approximately thirteen (13) one-half (1/2) acre lots to be developed within the following two years. Specific conditions for permitting each phase shall be determined at the time of preliminary plat approval. As each phase is developed, the appropriate roadway and utility infrastructure including, but not limited to, water, sewer and stormwater facilities, shall be constructed in accordance with the master drainage, utility and roadway plans for the project, subject to approval of final engineering plans for each phase of development.

(c) Land Use and Intensity: The Marsh Point Business Park shall be limited to light industrial/wholesale commercial enterprises situated on one-half (1/2) acre lots with customary accessory uses, common drainage, traffic circulation and natural open space areas. The specific permitted uses are described on pages 7 - 10 of the Development Plan Report except that items 11, 15, 37, 38, 48, 50, 56, 65, 67, 73, 74, 84, 85, 87, 95, 96, 99, 103 and 113 shall not be permitted uses. Any outside storage (more than 48 hours) of vehicles, material, equipment and supplies shall be fully screened from public view; provided, however, that no vehicles shall be stored on the property for more than 90 days and no junk yard or auto salvage operations shall be permitted whatsoever. All retail sales shall be incidental to a primary wholesale commercial activity.

The development of the property shall be consistent with the limits described below for each land use area within the proposed PD; provided, however, that the Applicant shall have the right to reduce the net density of any given phase without having to amend the approved Development Plan for the project. The location and approximate size of the land use areas are shown on the Development Plan Maps and identified as separate phases.

MAXIMUM PERMITTED DENSITY

| | Total Lots | Upland Areas | Net Density | Wetland Areas | Total Acreage | Gross Density |
|---------|-----------------|--------------------|--------------------|-------------------|--------------------|--------------------|
| Phase 1 | 17 | 12.076 | 1.408 | 0.060 | 12.136 | 1.401 |
| Phase 2 | 13 | 2.964 | 4.386 | 6.970 | 9.934 | 1.309 |
| TOTAL | 30 ^a | 15.04 ^b | 1.995 ^a | 7.03 ^c | 22.07 ^d | 1.359 ^a |

^aProject density shall be reduced if the net developable acreage is not sufficient to accommodate 30 one-half (1/2) acre lots plus common drainage, open space, roads, landscape buffers, tree protection, required mitigation areas, etc.

^bSubject to final determination of wetland limits.

^cPreliminary estimate only. Actual wetland limits shall be determined before preliminary plat approval by the appropriate regulatory agencies.

^dIncludes 2.926 acres of roads, 1.156 acres of landscape buffers and 3.524 acres of drainage and conservation areas.

(d) Special Regulations: Notwithstanding any other provision of this Ordinance, no use shall be made of the property which interferes with the operation of airborne aircraft. The following special requirements shall apply to each permitted use:

- (1) All lights or illumination used in conjunction with streets, signs, parking areas and other uses of land or buildings shall be arranged and operated in such a manner that they are not misleading or dangerous to passing aircraft.
- (2) No operations shall produce smoke, glare or other visual hazards within three (3) statute miles of any usable runway.
- (3) No operations shall produce electronic interference with navigation signals or radio communications between the airport and passing aircraft.
- (4) There shall be no storage of explosive materials, assemblage of large groups of people or any other use that could produce a major catastrophe as a result of an aircraft crash.

(e) Common Areas: The Applicant shall create common drainage, natural open space, landscape buffers and conservation areas and retain unified ownership and control of all lands identified for such land uses; provided, however, that after the formation of a Property Owner's Association, said lands may be transferred to, owned and maintained by the Property Owner's Association.

(f) Environmental Considerations: Prior to preliminary plat approval, the Applicant shall engage an environmental consultant to: (1) determine the census of any endangered or threatened species (flora and fauna) on the property; (2) determine the location of such species; and, (3) provide documentation from the appropriate regulatory agency approving a plan to accommodate any such endangered or threatened species, whether on- or off-site.

In addition, the Applicant shall: (1) prepare a report on soil limitations; (2) identify any wetland vegetation; (3) develop a wetlands mitigation plan; and, (4) describe any plans to enhance the viability of wetland areas. As part of this report, the Applicant shall submit documentary evidence that all required permits for stormwater discharge, dredge

and fill and wetlands mitigation have been obtained from the appropriate regulatory agencies.

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(h) Stormwater Drainage: The development shall meet or exceed the requirements of the Stormwater Management and Conservation Ordinance, Chapter 25B of the Code, and any other applicable federal, state or local law or ordinance regulating stormwater management and wetlands protection.

(i) Roadways: The Applicant estimates that the Development Plan will not adversely affect the level of service on area roadways below the minimum acceptable levels of service. Nevertheless, the Applicant shall provide a left turn lane on Marsh Road for northbound traffic to the project entrance to prevent any peak hour traffic from backing up onto U.S. 92/S.R. 600. All roadways shall be constructed in compliance with the Subdivision Ordinance, Chapter 26A of the Code, and the State's Minimum Standards for Public Streets and Roads. All roads within the project shall be dedicated to the City of DeLand.

(j) Off-street Parking. The proposed parking standards for the development, as outlined in the Development Plan Report, meet or exceed minimum requirements.

(k) Sidewalks, Trails and Bikeways: The Applicant shall construct a four foot (4') wide sidewalk along the Applicant's property on the East side of Marsh Road to facilitate safe pedestrian access from U.S. 92 to the nearby residential areas. The Applicant shall provide for the perpetual maintenance of the sidewalk.

(l) Screening: The Applicant shall maintain a twenty foot (20') wide landscape buffer around the perimeter of the project along Old Daytona Road, Marsh Road, U.S. 92 and adjacent residential areas. This landscape buffer, together with the proposed building setback regulations described in the Development Plan Report, is deemed sufficient to satisfy the minimum perimeter setback requirements of Section 33-24 of the Code. In addition, the Applicant shall construct and maintain a seven foot (7') high fence along the side or rear lot lines of any lots where they abut residential areas and shall not permit the outside storage of any materials to

exceed eight feet (8') high.

(m) Property Owner's Association: A Property Owner's Association shall be created by the Applicant to own, manage and maintain the common areas. The owner of each lot shall be a member of the Association and shall be liable for, with a lien securing payment of, annual and special assessments collected by the Association for the improvement, maintenance, enhancement, enlargement and operation of common areas, and for payment of taxes, governmental assessments, insurance, costs of materials, equipment, labor, professional services, management and supervision necessary to carry out the authorized functions of the Association, and for payment of principal, interest and other charges connected with loans made to or assumed by the Association.

The charter and bylaws of said Property Owner's Association and any amendments thereto or related agreements, covenants, easements or restrictions which relate to the terms and conditions of this Ordinance shall be furnished to the City for review and approval at least thirty (30) days before proposed execution and filing in the Official Records of Volusia County, Florida. The Applicant shall bear and pay the costs of recording all the aforesaid documents. The City shall not be responsible for enforcing the Declaration of Protective Covenants, Conditions and Restrictions for the Marsh Point Business Park or the Articles of Incorporation or By-Laws of the Association.

(n) Architectural Review Board: The Applicant shall create an Architectural Review Board. Prior to the construction of any buildings or accessory structures, all plans and specifications must have the prior approval of this Board. All regulations pertaining to the Architectural Review Board shall be at the sole discretion of the Applicant; provided, however, that the regulations shall be completely consistent with the requirements of this Ordinance. The City shall not be responsible for enforcing the regulations of the Architectural Review Board.

(o) Binding Effect of Plans; Recording: The provisions of the foregoing Development Plan including any and all supplementary orders and resolutions, shall bind and inure to the benefit of the Applicant and her heirs, personal representatives, executors, administrators, successors and assigns. A copy of this Ordinance and all subsequent orders and resolutions shall be filed for record in the Official Records of Volusia County, Florida.

(p) Reverter Provision: The City Commission may rezone any portion of the project which has not secured final plat approval on or before December 31, 1996 as may be necessary or appropriate to protect adjoining properties or the public health, safety and welfare, unless the City Commission, for good cause shown, shall extend the time period indicated in

this paragraph.

Section 6. 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 7. 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 capacity.

Section 8. 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 9. This Ordinance shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this _____ day of _____, 1991.

Wiley M. Nash
Mayor-Commissioner

ATTEST:

Viola H. Ballentine
City Clerk - Auditor

Passed on first reading:
Adopted on second reading:

APPROVED AS TO FORM AND LEGALITY:

Astrid de Parry
City Attorney
CA/ORDINANC/MARSHPT

**MINUTES OF THE
DELAND PLANNING BOARD MEETING
WEDNESDAY JANUARY 15, 1992, AT 5:00 P.M.
CITY COMMISSION CHAMBERS, DELAND, FLORIDA**

The meeting was called to order at 5:00 PM. Those attending were:

| | |
|---------------|--------------|
| Bonnie Bailey | Mary McMahan |
| John Allen | Alan Cajacob |
| Randall Timko | James Ford |

Randall Timko chaired the meeting in the absence of Paul Booker.

Also present were Gary Schindler, Planning Director; Abra Dow, Planner; Astrid de Parry, City Attorney; Roger Soderstrom, Donald Kafka, Mike McMahan, applicants; Bill Justin; Emery Jeffreys and Julie Watson of the press.

A. Approval of Minutes Wednesday December 18, 1991

Bonnie Bailey moved to approve the minutes as presented. John Allen seconded and the motion carried unanimously.

B. Verbal Report on City Commission Meetings

Gary Schindler gave an update on planning items taken to the City Commission. Mr. Schindler stated that AN-91-12-06 and AN-91-12-07 were approved on first reading. SP-91-10-30, Southpointe Commons Shopping Center, was approved. Z-91-02-01, Marsh Point Business Park PD, was continued until January 20 at the applicant's request.

C. Statement of Public Procedures

Randall Timko summarized the Statement of Public Participation Procedures.

D. NEW BUSINESS

- 1. PSB-91-02 Preliminary Subdivision Review of 12.14 acres of property located northwest of the intersection of Marsh Road and US 92 (Marsh Point Business Park.)**

Abra Dow presented the staff report on the subject property. Ms. Dow reported that the City Commission had reviewed the

sketch plat and had no objections to the overall concept for development. The only unresolved issue was a revision to the list of permitted uses in the PD ordinance which will be completed by staff and the applicant prior to the January 21 meeting.

Staff's primary concerns were related to wetland and tree preservation, but Phase II of the development contains adequate areas for preservation. The developer will be required to preserve these areas until an assessment of the need for environmental mitigation is completed. Currently, both phases are undeveloped. The applicant is requesting a preliminary plat review of Phase I. Mr. Watson proposes to subdivide Phase I into 16 lots. It is anticipated that Phase I will be close to completion of the final plat review process before Phase II begins its sketch plat review because an assessment of the environmental impacts of development upon the wetland and endangered species habitat will be required prior to completion of Phase I and commencement of Phase II.

Staff recommended conditional approval of the preliminary plat for Marsh Point Business Park, Phase I with the following conditions:

1. An environmental assessment shall be completed and approved by the planning director and the city's environmental consultant;
2. The applicant must submit a copy of any proposed covenants and deed restrictions, subject to the city attorney's review and approval;
3. The applicant must provide a copy of a St. Johns River Water Management District stormwater and wetlands permits;
4. The applicant must provide the City with an avigation easement;
5. The applicant must provide a copy of a Volusia County driveway permit;
6. The applicant must dedicate the lift station site and provide the City with an access easement to the site;
7. The applicant must clearly depict on the plans any proposed sign details for the subdivision entry and identification signs;

8. The applicant must install a 5' wide sidewalk on the east side of Marsh Road, along the property boundary of the proposed Marsh Woods subdivision and provide access and maintenance agreements for the sidewalk;
9. The applicant must provide evidence of ownership of the land which will contain the sidewalk;
10. The applicant must obtain final approval of the PD rezoning report and resolve the remaining issues regarding permitted uses; and
11. Regarding lot 7 in phase I; the applicant will need to dedicate a wetland buffer area, a minimum of 25' wide, along the edges of the limits of the wetland which encroaches into lot 7.

Bonnie Bailey asked if the Tree Advisory Board or Mr. Nordman had reviewed that property? Ms. Dow replied that Mr. Nordman had.

John Allen asked about runoff into the canal. Ms. Dow replied that she had checked with the City Engineer and he was satisfied with the stormwater evaluation.

Alan Cajacob asked about the entrances being across from each other and the possibility of a deceleration/turn lane on either side. Ms. Dow replied that the City Engineer felt that the design was adequate without further modification.

Mike McMahan, engineer, said there was a left turn lane for the industrial park shown on the plans, but the residential subdivision is only at sketch plat review at this point.

James Ford asked what the speed limit was and was told it was about 35 mph. Mr. Ford said that FDOT does not require a deceleration lane at 35 mph or lower.

Mike McMahan said that there were several factors involved in considering turn lanes and that the traffic volume did not warrant a turn lane.

No one from the audience wished to be heard.

James Ford moved to recommend approval of the application as recommended by Staff. Mary McMahan seconded. The roll was called and the motion carried unanimously.

M E M O R A N D U M
P L A N N I N G D E P A R T M E N T
- - - - -

January 13, 1992

FILE: P-92-19

TO: Astrid de Parry, City Attorney
FROM: Gary Schindler, AICP, Planning Director *MSM*
SUBJECT: Revisions to proposed ordinance for Marsh Park
Business Park Planned Development.

The first paragraph on page 3, (c) Land Use and Intensity,
needs to be revised as follows:

1. Item #1, automotive and marine repair, should be deleted from the existing list. It is understood that automotive repair will include radiator repair. However, the industrial use of remanufacturing radiators will not be permitted.
2. Item #97, towing and wrecker service, should be deleted from the existing list.
3. Item 104, vehicle storage, is to be deleted from the existing list, with the condition that ninety (90) days is the maximum length of time that a vehicle can be stored and that the land use will not entail any on-site salvage operation.

CITY OF DELAND

DELAND, FLORIDA 32721



POST OFFICE DRAWER 449
TELEPHONE: (904) 736-3900
FAX: (904) 736-9819

January 7, 1992

Mr. Harold Watson
1171 Glenwood Road
DeLand, FL 32720

RE: Z-91-02-01, Development plan review for Marsh Point Business Park Planned Development (PD), located on the NW corner of US 92 and Marsh Road.

Dear Mr. Watson:

Per your request, at its regular meeting of January 6, 1992, the City Commission continued the review of the proposed development plan for Marsh Point Business Park Planned Development (PD). This item will be rescheduled for the Tuesday, January 21, 1992, Commission Meeting at 7:00 PM.

If you have any questions concerning this matter, please don't hesitate to contact me at 736-3900 extension 247.

Sincerely,

Gary Schindler, AICP
Planning Director

GS:emm

zone/Z9101L2

City Commission Meeting
January 6, 1992

1. Second Reading of Ordinance #92-1, PD Development, Marsh Point Business Park.

Ms. de Parry read the following ordinance by title only:

ORDINANCE 92-1

AN ORDINANCE OF THE CITY OF DELAND, FLORIDA CHANGING THE ZONING FROM R-4, URBAN SINGLE FAMILY RESIDENTIAL DISTRICT, TO PD, PLANNED DEVELOPMENT DISTRICT, ON DESCRIBED PROPERTY LOCATED NORTHWEST OF THE INTERSECTION OF MARSH ROAD AND U.S. 92/S.R. 600; APPROVING A DEVELOPMENT PLAN FOR THE MARSH POINT BUSINESS PARK, A PLANNED DEVELOPMENT CONSISTING OF APPROXIMATELY 22.07 ACRES OF PROPERTY; DIRECTING A CHANGE IN THE COMPREHENSIVE ZONING MAP; CONDITIONING FINAL DEVELOPMENT APPROVAL ON A DETERMINATION OF CAPACITY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Virginia Jacobs (hereinafter referred to as "the Applicant") owns a 22.07 acre parcel of land located Northwest of the intersection of Marsh Road and U.S. 92/S.R. 600, 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 land described in Exhibit "A" was annexed to the City on June 5, 1989 with an initial zoning designation of PD, Planned Development District, pending the approval of a development plan for the property pursuant to Section 33-24 of the Code of Ordinances of the City of DeLand (the "Code"); and

WHEREAS, the Applicant has applied for a change of zoning from the present zoning classification of R-4, Urban Single Family Residential, to PD, Planned Development District; and

WHEREAS, said rezoning as a PD District is consistent with both the City of DeLand Comprehensive Plan and the purpose and intent of Section 33-24; and

WHEREAS, the Applicant has submitted an application for approval of a development plan for the Marsh Point Business Park 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, intensity of development, open spaces, plazas and recreation, sidewalks, trails and bikeways, environmental constraints, internal access and circu-

City Commission Meeting
January 6, 1992

lation, external transportation access, off-street parking, public facilities and unified control;

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

Section 1. The City Commission has held a public hearing to confirm the initial zoning designation of the land described in Exhibit "A" and to approve the change of zoning from R-4, Urban Single Family Residential, 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 33-24 of the Code and the development of this property shall take place in accordance with that Section and in substantial compliance with the Development Plan Report and Maps submitted by the Applicant 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 Applicant 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 set forth in Section 5 below.

Section 5. The approved Development Plan for the Marsh Point Business Park is set forth below:

(a) Development Concept: The Applicant proposes to construct a business park consisting of approximately thirty (30) one-half (1/2) acre lots to be used for wholesale distribution, storage and limited light manufacturing purposes. The Applicant shall maintain unified ownership of the property until a final plat has been approved for areas to be subdivided. No lots or parcels of land shall be sold until a final plat encompassing the property to be conveyed has been approved for filing by the City; provided, however, that the Applicant shall have the right to sell the entire property described in Exhibit "A" to a single owner before final plat approval so long as said owner specifically agrees to be bound by all of the terms and conditions of this Ordinance and the Applicant agrees to have a

City Commission Meeting
 January 6, 1992

sidewalk constructed on her other property on the East side of Marsh Road.

(b) Phases of Development: This project is projected to be developed in two phases over a five year period. The first phase includes approximately seventeen (17) one-half (1/2) acre lots to be developed over three years. The second phase includes approximately thirteen (13) one-half (1/2) acre lots to be developed within the following two years. Specific conditions for permitting each phase shall be determined at the time of preliminary plat approval. As each phase is developed, the appropriate roadway and utility infrastructure including, but not limited to, water, sewer and stormwater facilities, shall be constructed in accordance with the master drainage, utility and roadway plans for the project, subject to approval of final engineering plans for each phase of development.

(c) Land Use and Intensity: The Marsh Point Business Park shall be limited to light industrial/wholesale commercial enterprises situated on one-half (1/2) acre lots with customary accessory uses, common drainage, traffic circulation and natural open space areas. The specific permitted uses are described on pages 7 - 10 of the Development Plan Report except that items 1, 11, 15, 37, 38, 48, 50, 56, 65, 67, 73, 74, 84, 85, 87, 95, 96, 97, 99, 103, 104 and 113 shall not be permitted uses. Any outside storage (more than 48 hours) of vehicles, material, equipment and supplies shall be fully screened from public view. All retail sales shall be incidental to a primary wholesale commercial activity.

The development of the property shall be consistent with the limits described below for each land use area within the proposed PD; provided, however, that the Applicant shall have the right to reduce the net density of any given phase without having to amend the approved Development Plan for the project. The location and approximate size of the land use areas are shown on the Development Plan Maps and identified as separate phases.

MAXIMUM PERMITTED DENSITY

| | Total Lots | Upland Areas | Net Density | Wetland Areas | Total Acreage | Gross Den- sity |
|---------|-----------------|--------------------|--------------------|-------------------|--------------------|-----------------------|
| Phase 1 | 17 | 12.076 | 1.408 | 0.060 | 12.136 | 1.401 |
| Phase 2 | 13 | 2.964 | 4.386 | 6.970 | 9.934 | 1.309 |
| TOTAL | 30 ^a | 15.04 ^b | 1.995 ^a | 7.03 ^c | 22.07 ^d | 1.359 ^a |

^a Project density shall be reduced if the net developable acreage is not sufficient to accommodate 30 one-half (1/2) acre

City Commission Meeting
January 6, 1992

lots plus common drainage, open space, roads, landscape buffers, tree protection, required mitigation areas, etc.

b Subject to final determination of wetland limits.

c Preliminary estimate only. Actual wetland limits shall be determined before preliminary plat approval by the appropriate regulatory agencies.

d Includes 2.926 acres of roads, 1.156 acres of landscape buffers and 3.524 acres of drainage and conservation areas.

(d) Special Regulations: Notwithstanding any other provision of this Ordinance, no use shall be made of the property which interferes with the operation of airborne aircraft. The following special requirements shall apply to each permitted use:

- (1) All lights or illumination used in conjunction with streets, signs, parking areas and other uses of land or buildings shall be arranged and operated in such a manner that they are not misleading or dangerous to passing aircraft.
- (2) No operations shall produce smoke, glare or other visual hazards within three (3) statute miles of any usable runway.
- (3) No operations shall produce electronic interference with navigation signals or radio communications between the airport and passing aircraft.
- (4) There shall be no storage of explosive materials, assemblage of large groups of people or any other use that could produce a major catastrophe as a result of an aircraft crash.

(e) Common Areas: The Applicant shall create common drainage, natural open space, landscape buffers and conservation areas and retain unified ownership and control of all lands identified for such land uses; provided, however, that after the formation of a Property Owner's Association, said lands may be transferred to, owned and maintained by the Property Owner's Association.

(f) Environmental Considerations: Prior to preliminary plat approval, the Applicant shall engage an environmental consultant to: (1) determine the census of any endangered or threatened species (flora and fauna) on the property; (2) determine the location of such species; and, (3) provide documentation from the appropriate regulatory agency approving a plan to accommodate any such endangered or threatened species, whether on- or off-site.

City Commission Meeting
January 6, 1992

In addition, the Applicant shall: (1) prepare a report on soil limitations; (2) identify any wetland vegetation; (3) develop a wetlands mitigation plan; and, (4) describe any plans to enhance the viability of wetland areas. As part of this report, the Applicant shall submit documentary evidence that all required permits for stormwater discharge, dredge and fill and wetlands mitigation have been obtained from the appropriate regulatory agencies.

(g) Public Facilities: All necessary public facilities and services required to support the development of the property shall be available concurrent with the impacts of development. If the necessary public facilities and services are not available concurrent with the impacts of development, the Applicant may be required to bear the reasonable cost of providing same as a condition to preliminary or final plat approval. Potable water, sanitary sewer and solid waste service shall be provided by the City of DeLand upon approval of final engineering plans, completion of utility infrastructure and payment of the usual and customary fees.

(h) Stormwater Drainage: The development shall meet or exceed the requirements of the Stormwater Management and Conservation Ordinance, Chapter 25B of the Code, and any other applicable federal, state or local law or ordinance regulating stormwater management and wetlands protection.

(i) Roadways: The Applicant estimates that the Development Plan will not adversely affect the level of service on area roadways below the minimum acceptable levels of service. Nevertheless, the Applicant shall provide a left turn lane on Marsh Road for northbound traffic to the project entrance to prevent any peak hour traffic from backing up onto U.S. 92/S.R. 600. All roadways shall be constructed in compliance with the Subdivision Ordinance, Chapter 26A of the Code, and the State's Minimum Standards for Public Streets and Roads. All roads within the project shall be dedicated to the City of DeLand.

(j) Off-street Parking. The proposed parking standards for the development, as outlined in the Development Plan Report, meet or exceed minimum requirements.

(k) Sidewalks, Trails and Bikeways: The Applicant shall construct a four foot (4') wide sidewalk along the Applicant's property on the East side of Marsh Road to facilitate safe pedestrian access from U.S. 92 to the nearby residential areas. The Applicant shall provide for the perpetual maintenance of the sidewalk.

(l) Screening: The Applicant shall maintain a twenty foot (20') wide landscape buffer around the perimeter of the

City Commission Meeting
January 6, 1992

project along Old Daytona Road, Marsh Road, U.S. 92 and adjacent residential areas. This landscape buffer, together with the proposed building setback regulations described in the Development Plan Report, is deemed sufficient to satisfy the minimum perimeter setback requirements of Section 33-24 of the Code. In addition, the Applicant shall construct and maintain a seven foot (7') high fence along the side or rear lot lines of any lots where they abut residential areas and shall not permit the outside storage of any materials to exceed eight feet (8') high.

(m) Property Owner's Association: A Property Owner's Association shall be created by the Applicant to own, manage and maintain the common areas. The owner of each lot shall be a member of the Association and shall be liable for, with a lien securing payment of, annual and special assessments collected by the Association for the improvement, maintenance, enhancement, enlargement and operation of common areas, and for payment of taxes, governmental assessments, insurance, costs of materials, equipment, labor, professional services, management and supervision necessary to carry out the authorized functions of the Association, and for payment of principal, interest and other charges connected with loans made to or assumed by the Association.

The charter and bylaws of said Property Owner's Association and any amendments thereto or related agreements, covenants, easements or restrictions which relate to the terms and conditions of this Ordinance shall be furnished to the City for review and approval at least thirty (30) days before proposed execution and filing in the Official Records of Volusia County, Florida. The Applicant shall bear and pay the costs of recording all the aforesaid documents. The City shall not be responsible for enforcing the Declaration of Protective Covenants, Conditions and Restrictions for the Marsh Point Business Park or the Articles of Incorporation or By-Laws of the Association.

(n) Architectural Review Board: The Applicant shall create an Architectural Review Board. Prior to the construction of any buildings or accessory structures, all plans and specifications must have the prior approval of this Board. All regulations pertaining to the Architectural Review Board shall be at the sole discretion of the Applicant; provided, however, that the regulations shall be completely consistent with the requirements of this Ordinance. The City shall not be responsible for enforcing the regulations of the Architectural Review Board.

(o) Binding Effect of Plans; Recording: The provisions of the foregoing Development Plan including any and all supplementary orders and resolutions, shall bind and inure to the benefit of the Applicant and her heirs, personal representatives, executors, administrators, successors and assigns. A

City Commission Meeting
January 6, 1992

copy of this Ordinance and all subsequent orders and resolutions shall be filed for record in the Official Records of Volusia County, Florida.

(p) Reverter Provision: The City Commission may rezone any portion of the project which has not secured final plat approval on or before December 31, 1996 as may be necessary or appropriate to protect adjoining properties or the public health, safety and welfare, unless the City Commission, for good cause shown, shall extend the time period indicated in this paragraph.

Section 6. 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 7. 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 capacity.

Section 8. 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 9. This Ordinance shall become effective immediately upon its adoption.

Ms. Ballentine reported that this is the second reading of the ordinance which was passed on first reading at the meeting held on December 16, 1991, and has been published as required by law.

It was recommended that the Commission adopt the ordinance.

Mayor Nash opened the public hearing. There being no comments, the public hearing was closed.

A motion was made by Commissioner Bright to adopt the ordinance. Commissioner Rigsby seconded the motion.

Mr. Schindler reported that Mr. Watson has requested that several of the proposed uses recommended to be deleted by staff, not be deleted. There are as follows: automotive and marine repair (including body shops); boat and marine repair; greenhouses, nurseries, and landscaping sales; general, professional, medical, and dental offices, clinics; industrial vocational training school; marine sales and service; motor vehicle rental, leasing, sales and service (including passenger

City Commission Meeting
January 6, 1992

vehicles, light trucks, trucks, recreational vehicles, and commercial vehicles); private clubs and lodges; public utilities; radiator repair, cleaning and flushing establishments; railroad yards, sidings and terminals; rental of trailers and trucks; swimming pool sales and service; tractor sales and service; towing and wrecker service; truck and rail freight terminals; used materials, sales (not to include junk yards); vehicle storage, including trucks and heavy equipment; and day care as an accessory use only.

Mr. Watson reported that he was in agreement with staff regarding the restricted uses, and requested that the Commission continue this item until January 21, 1992 in order to allow Ms. Bolek, President of the Homeowners Association, staff and himself to discuss the proposed uses.

It was the consensus of the Commission to continue this item until January 21, 1992.

Speed Message

To Mr. Gary Schindler, AICP

From Harold Watson

■ Planning Director

■ City of DeLand

RECEIVED
JAN - 3 1992

Subject Proposed uses : Marsh Point Business Park

Date January 3 1992

Gary, I would like to request that the City Commission consider the proposed land uses at Marsh Point when they review the second reading of the PD zoning on January 6, 1992.

Ms. Virginia Bolek, President of the DeLand Highlands Home-owners Association has a copy of the list you and I reviewed earlier. and her group has no objections to any of the proposed uses. She has agreed to attend the meeting with me to answer any questions the Commission may have.

Thank you for your continuing help and assistance

Signed _____



City Commission Meeting
December 16, 1991

1. **First Reading, PD Development, Marsh Point Business Park.**

Ms. de Parry read the following ordinance by title only:

ORDINANCE 92-1

AN ORDINANCE OF THE CITY OF DELAND, FLORIDA CHANGING THE ZONING FROM R-4, URBAN SINGLE FAMILY RESIDENTIAL DISTRICT, TO PD, PLANNED DEVELOPMENT DISTRICT, ON DESCRIBED PROPERTY LOCATED NORTHWEST OF THE INTERSECTION OF MARSH ROAD AND U.S. 92/S.R. 600; APPROVING A DEVELOPMENT PLAN FOR THE MARSH POINT BUSINESS PARK, A PLANNED DEVELOPMENT CONSISTING OF APPROXIMATELY 22.07 ACRES OF PROPERTY; DIRECTING A CHANGE IN THE COMPREHENSIVE ZONING MAP; CONDITIONING FINAL DEVELOPMENT APPROVAL ON A DETERMINATION OF CAPACITY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Mr. Schindler reported that Mr. Harold Watson, the applicant, is applying for a Development Order to establish PD, planned development, zoning regulations for Marsh Point Business Park.

On April 19, 1989, the Planning Board recommended approval of the annexation of Marsh Point Business Park with a PD zoning designation and on June 6, 1989, the City Commission annexed the property. Since 67% of the site is located in the proposed airport clear zone, which prohibits residential development or development which would lead to large congregations of people, the heavy commercial, light industrial type zoning proposed by Mr. Watson is appropriate.

The following issues were raised both during the November 20, 1991 and June 6, 1989 Planning Board meetings:

1. The compatibility of industrial land use abutting the existing residential neighborhood.
2. The effect of noise, odor, and other factors generated from the proposed industrial development upon the existing residential neighborhood.
3. The effect of the FAA mandated clear zone upon the proposed development and its permitted uses.
4. The effect of the development of the property upon Little Haw Creek, and site itself.

After a discussion of these concerns on November 20, the Planning Board agreed that the developer had adequately addressed most of the concerns in the development plan and added conditions to the PD development order to further mitigate adverse impacts resulting from the development. The president of the DeLand Highlands Homeowner's Association attended the meeting and expressed her organization's support for the project. As a

result of the discussion during the Planning Board meeting, the Planning Board members forwarded the application with a recommendation for approval with conditions as follows:

- 1) The developer will install a 4' wide sidewalk along the east side of Marsh Road between U.S. 92 and Old Daytona Road.
- 2) The developer will obtain any property along the east side of Marsh Road for required sidewalk installation.
- 3) The developer will provide the City with access and maintenance agreements for the sidewalk.
- 4) The developer will provide covenants and deed restrictions for lots 26, 27, and 30 which limit the height of any outdoor storage to 8' within 15' of the lot lines abutting residential land uses.
- 5) In the PD zoning order, provide wording which limits the height of any outdoor storage to 8' within 15' of the rear lot lines for lots 26, 27, and 30. This will give the City two modes of enforcement.
- 6) The developer will provide documentation from a professional wildlife biologist or environmental consultant which addresses the environmental concerns outlined in the staff report to the Planning Board (enclosed).

If constructed, the proposed development will increase the value of the property and add to the City's ad-valorem tax base.

It was recommended that the Commission approve the development order for planned development zoning for Marsh Point Business Park, with conditions as recommended.

Mayor Nash opened the public hearing. There being no comments, the public hearing was closed.

A motion was made by Commissioner Bright to approve the ordinance for first reading. Commissioner Rigsby seconded the motion which carried by the following roll call vote:

| | |
|---------------------|-----|
| Commissioner Disney | Yes |
| Commissioner Bright | Yes |
| Commissioner Bollum | Yes |
| Commissioner Rigsby | Yes |
| Mayor Nash | Yes |

PLANNING DEPARTMENT

MEMO TO FILE

DATE: December 16, 1991

FILE NO.: Z-91-02-01

FROM: Eunice Muir 

SUBJECT: Marsh Point Business Park PD

ACTION TAKEN:

Contacted Harold Watson regarding a Power of Attorney authorizing James Clayton, attorney, to act on behalf of Virginia Jacobs. Mr. Watson informed us on Friday December 13, 1991, that the City Attorney already had one on file.

Spoke to Astrid de Parry on December 16, who informed me that she has a letter from James Clayton stating that he is acting on Mrs. Jacobs behalf and that he will get a Power of Attorney to us at a later date.

STATUS: Waiting for Power of Attorney

memo/memofile

RECEIVED
DEC 12 1991

CITY OF DeLand, FLORIDA
REQUEST FOR COMMISSION ACTION

| | |
|------------------------------|-------------------------------|
| Department: Planning | Attachments: |
| Subject: | [X] Ordinance |
| Development Order- | [X] Staff Report |
| Planned Development Zoning | [X] Conditions of Approval |
| of Marsh Point Business Park | [X] Location Map |
| located on the northwest | [X] Plans |
| corner of U.S. 92 & Marsh | [X] Other (Dev Plan Report) |
| Road | |
| Prepared By: | Approved By: |
| <i>[Signature]</i> | <i>[Signature]</i> |
| Department Head: | City Manager: |

SUMMARY/HIGHLIGHT:

Mr. Harold Watson, the applicant, is applying for a Development Order to establish PD, planned development, zoning regulations for Marsh Point Business Park.

On April 19, 1989, the Planning Board recommended approval of the annexation of Marsh Point Business Park with a PD zoning designation and on June 6, 1989, the City Commission annexed the property. Since 67% of the property is located in the proposed airport clear zone, which prohibits residential development and large congregations of people, the light industrial zoning outlined in the development plan report is appropriate.

At their November 20, 1991, meeting the Planning Board reviewed the proposed Marsh Point Business Park. Although some concerns for surrounding property owners were discussed at length, the PD zoning was forwarded to the City Commission with conditional approval (See the attached sheet titled, "Conditions for PD zoning Development Order").

FISCAL IMPACT:

If constructed, the proposed development will increase the value of the property and add to the City's ad-valorem tax base.

RECOMMENDATION:

It is recommended that the Commission approve the development order for planned development zoning for Marsh Point Business Park, with conditions as recommended.

SUBJECT: PD Development, Marsh Point Business Park

BACKGROUND/DISCUSSION:

Since 67% of the site is located in the proposed airport clear zone, which prohibits residential development or development which would lead to large congregations of people, the heavy commercial, light industrial type zoning proposed by Mr. Watson is appropriate.

On November 20, 1991, the Planning Board reviewed the proposed Marsh Point Business Park. Although some concerns for surrounding property owners were discussed at length, the PD zoning was forwarded to the City Commission with conditional approval (See the attached sheet titled, "Conditions for PD zoning Development Order").

The following issues were raised both during the November 20, 1991 and June 6, 1989 Planning Board meetings:

1. The compatibility of industrial land use abutting the existing residential neighborhood.
2. The effect of noise, odor, and other factors generated from the proposed industrial development upon the existing residential neighborhood.
3. The effect of the FAA mandated clear zone upon the proposed development and its permitted uses.
4. The effect of the development of the property upon Little Haw Creek, and site itself.

After a discussion of these concerns on November 20, the Planning Board agreed that the developer had adequately addressed most of the concerns in the development plan and added conditions to the PD development order to further mitigate adverse impacts resulting from the development. The president of the DeLand Highlands Homeowner's Association attended the meeting and expressed her organization's support for the project. As a result of the discussion during the Planning Board meeting, the Planning Board members forwarded the application with a recommendation for approval.

| Commission Action: | Modification: |
|---------------------------------|---------------|
| [] Approved As Recommended | |
| [] Approved With Modifications | |
| [] Disapproved | |
| [] Continued-Date: | |

ORDINANCE 91-

AN ORDINANCE OF THE CITY OF DELAND, FLORIDA CHANGING THE ZONING FROM R-4, URBAN SINGLE FAMILY RESIDENTIAL DISTRICT, TO PD, PLANNED DEVELOPMENT DISTRICT, ON DESCRIBED PROPERTY LOCATED NORTHWEST OF THE INTERSECTION OF MARSH ROAD AND U.S. 92/S.R. 600; APPROVING A DEVELOPMENT PLAN FOR THE MARSH POINT BUSINESS PARK, A PLANNED DEVELOPMENT CONSISTING OF APPROXIMATELY 22.07 ACRES OF PROPERTY; DIRECTING A CHANGE IN THE COMPREHENSIVE ZONING MAP; CONDITIONING FINAL DEVELOPMENT APPROVAL ON A DETERMINATION OF CAPACITY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Virginia Jacobs (hereinafter referred to as "the Applicant") owns a 22.07 acre parcel of land located Northwest of the intersection of Marsh Road and U.S. 92/S.R. 600, 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 land described in Exhibit "A" was annexed to the City on June 5, 1989 with an initial zoning designation of PD, Planned Development District, pending the approval of a development plan for the property pursuant to Section 33-24 of the Code of Ordinances of the City of DeLand (the "Code"); and

WHEREAS, the Applicant has applied for a change of zoning from the present zoning classification of R-4, Urban Single Family Residential, to PD, Planned Development District; and

WHEREAS, said rezoning as a PD District is consistent with both the City of DeLand Comprehensive Plan and the purpose and intent of Section 33-24; and

WHEREAS, the Applicant has submitted an application for approval of a development plan for the Marsh Point Business Park 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, intensity of development, open spaces, plazas and recreation, sidewalks, trails and bikeways, environmental constraints, internal access and circulation, external transportation access, off-street parking, public facilities and unified control;

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

Section 1. The City Commission has held a public hearing to confirm the initial zoning designation of the land described in Exhibit "A" and to approve the change of zoning from R-4, Urban Single Family Residential, 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 33-24 of the Code and the development of this property shall take place in accordance with that Section and in substantial compliance with the Development Plan Report and Maps submitted by the Applicant 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 Applicant 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 set forth in Section 5 below.

Section 5. The approved Development Plan for the Marsh Point Business Park is set forth below:

(a) Development Concept: The Applicant proposes to construct a business park consisting of approximately thirty (30) one-half (1/2) acre lots to be used for wholesale distribution, storage and limited light manufacturing purposes. The Applicant shall maintain unified ownership of the property until a final plat has been approved for areas to be subdivided. No lots or parcels of land shall be sold until a final plat encompassing the property to be conveyed has been approved for filing by the City; provided, however, that the Applicant shall have the right to sell the entire property described in Exhibit "A" to a single owner before final plat approval so long as said owner specifically agrees to be bound by all of the terms and conditions of this Ordinance and the Applicant agrees to have a sidewalk constructed on her other property on the East side of Marsh Road.

(b) Phases of Development: This project is projected to be developed in two phases over a five year period. The

first phase includes approximately seventeen (17) one-half (1/2) acre lots to be developed over three years. The second phase includes approximately thirteen (13) one-half (1/2) acre lots to be developed within the following two years. Specific conditions for permitting each phase shall be determined at the time of preliminary plat approval. As each phase is developed, the appropriate roadway and utility infrastructure including, but not limited to, water, sewer and stormwater facilities, shall be constructed in accordance with the master drainage, utility and roadway plans for the project, subject to approval of final engineering plans for each phase of development.

(c) Land Use and Intensity: The Marsh Point Business Park shall be limited to light industrial/wholesale commercial enterprises situated on one-half (1/2) acre lots with customary accessory uses, common drainage, traffic circulation and natural open space areas. The specific permitted uses are described on pages 7 - 10 of the Development Plan Report except that items 1, 11, 15, 37, 38, 48, 50, 56, 65, 67, 73, 74, 84, 85, 87, 95, 96, 97, 99, 103, 104 and 113 shall not be permitted uses. Any outside storage (more than 48 hours) of vehicles, material, equipment and supplies shall be fully screened from public view. All retail sales shall be incidental to a primary wholesale commercial activity.

The development of the property shall be consistent with the limits described below for each land use area within the proposed PD; provided, however, that the Applicant shall have the right to reduce the net density of any given phase without having to amend the approved Development Plan for the project. The location and approximate size of the land use areas are shown on the Development Plan Maps and identified as separate phases.

MAXIMUM PERMITTED DENSITY

| | Total Lots | Upland Areas | Net Density | Wetland Areas | Total Acreage | Gross Density |
|---------|-----------------|--------------------|--------------------|-------------------|--------------------|--------------------|
| Phase 1 | 17 | 12.076 | 1.408 | 0.060 | 12.136 | 1.401 |
| Phase 2 | 13 | 2.964 | 4.386 | 6.970 | 9.934 | 1.309 |
| TOTAL | 30 ^a | 15.04 ^b | 1.995 ^a | 7.03 ^c | 22.07 ^d | 1.359 ^a |

^aProject density shall be reduced if the net developable acreage is not sufficient to accommodate 30 one-half (1/2) acre lots plus common drainage, open space, roads, landscape buffers, tree protection, required mitigation areas, etc.

^bSubject to final determination of wetland limits.

^cPreliminary estimate only. Actual wetland limits shall be determined before preliminary plat approval by the appropriate

regulatory agencies.

^dIncludes 2.926 acres of roads, 1.156 acres of landscape buffers and 3.524 acres of drainage and conservation areas.

(d) Special Regulations: Notwithstanding any other provision of this Ordinance, no use shall be made of the property which interferes with the operation of airborne aircraft. The following special requirements shall apply to each permitted use:

- (1) All lights or illumination used in conjunction with streets, signs, parking areas and other uses of land or buildings shall be arranged and operated in such a manner that they are not misleading or dangerous to passing aircraft.
- (2) No operations shall produce smoke, glare or other visual hazards within three (3) statute miles of any usable runway.
- (3) No operations shall produce electronic interference with navigation signals or radio communications between the airport and passing aircraft.
- (4) There shall be no storage of explosive materials, assemblage of large groups of people or any other use that could produce a major catastrophe as a result of an aircraft crash.

(e) Common Areas: The Applicant shall create common drainage, natural open space, landscape buffers and conservation areas and retain unified ownership and control of all lands identified for such land uses; provided, however, that after the formation of a Property Owner's Association, said lands may be transferred to, owned and maintained by the Property Owner's Association.

(f) Environmental Considerations: Prior to preliminary plat approval, the Applicant shall engage an environmental consultant to: (1) determine the census of any endangered or threatened species (flora and fauna) on the property; (2) determine the location of such species; and, (3) provide documentation from the appropriate regulatory agency approving a plan to accommodate any such endangered or threatened species, whether on- or off-site.

In addition, the Applicant shall: (1) prepare a report on soil limitations; (2) identify any wetland vegetation; (3) develop a wetlands mitigation plan; and, (4) describe any plans to enhance the viability of wetland areas. As part of this report, the Applicant shall submit documentary evidence that all required permits for stormwater discharge, dredge and fill and wetlands mitigation have been obtained from the appropriate regulatory agencies.

(g) Public Facilities: All necessary public facilities and services required to support the development of the property shall be available concurrent with the impacts of development. If the necessary public facilities and services are not available concurrent with the impacts of development, the Applicant may be required to bear the reasonable cost of providing same as a condition to preliminary or final plat approval. Potable water, sanitary sewer and solid waste service shall be provided by the City of DeLand upon approval of final engineering plans, completion of utility infrastructure and payment of the usual and customary fees.

(h) Stormwater Drainage: The development shall meet or exceed the requirements of the Stormwater Management and Conservation Ordinance, Chapter 25B of the Code, and any other applicable federal, state or local law or ordinance regulating stormwater management and wetlands protection.

(i) Roadways: The Applicant estimates that the Development Plan will not adversely affect the level of service on area roadways below the minimum acceptable levels of service. Nevertheless, the Applicant shall provide a left turn lane on Marsh Road for northbound traffic to the project entrance to prevent any peak hour traffic from backing up onto U.S. 92/S.R. 600. All roadways shall be constructed in compliance with the Subdivision Ordinance, Chapter 26A of the Code, and the State's Minimum Standards for Public Streets and Roads. All roads within the project shall be dedicated to the City of DeLand.

(j) Off-street Parking. The proposed parking standards for the development, as outlined in the Development Plan Report, meet or exceed minimum requirements.

(k) Sidewalks, Trails and Bikeways: The Applicant shall construct a four foot (4') wide sidewalk along the Applicant's property on the East side of Marsh Road to facilitate safe pedestrian access from U.S. 92 to the nearby residential areas. The Applicant shall provide for the perpetual maintenance of the sidewalk.

(l) Screening: The Applicant shall maintain a twenty foot (20') wide landscape buffer around the perimeter of the project along Old Daytona Road, Marsh Road, U.S. 92 and adjacent residential areas. This landscape buffer, together with the proposed building setback regulations described in the Development Plan Report, is deemed sufficient to satisfy the minimum perimeter setback requirements of Section 33-24 of the Code. In addition, the Applicant shall construct and maintain a seven foot (7') high fence along the side or rear lot lines of any lots where they abut residential areas and shall not permit the outside storage of any materials to exceed eight feet (8') high.

(m) Property Owner's Association: A Property Owner's Association shall be created by the Applicant to own, manage and maintain the common areas. The owner of each lot shall be a member of the Association and shall be liable for, with a lien securing payment of, annual and special assessments collected by the Association for the improvement, maintenance, enhancement, enlargement and operation of common areas, and for payment of taxes, governmental assessments, insurance, costs of materials, equipment, labor, professional services, management and supervision necessary to carry out the authorized functions of the Association, and for payment of principal, interest and other charges connected with loans made to or assumed by the Association.

The charter and bylaws of said Property Owner's Association and any amendments thereto or related agreements, covenants, easements or restrictions which relate to the terms and conditions of this Ordinance shall be furnished to the City for review and approval at least thirty (30) days before proposed execution and filing in the Official Records of Volusia County, Florida. The Applicant shall bear and pay the costs of recording all the aforesaid documents. The City shall not be responsible for enforcing the Declaration of Protective Covenants, Conditions and Restrictions for the Marsh Point Business Park or the Articles of Incorporation or By-Laws of the Association.

(n) Architectural Review Board: The Applicant shall create an Architectural Review Board. Prior to the construction of any buildings or accessory structures, all plans and specifications must have the prior approval of this Board. All regulations pertaining to the Architectural Review Board shall be at the sole discretion of the Applicant; provided, however, that the regulations shall be completely consistent with the requirements of this Ordinance. The City shall not be responsible for enforcing the regulations of the Architectural Review Board.

(o) Binding Effect of Plans; Recording: The provisions of the foregoing Development Plan including any and all supplementary orders and resolutions, shall bind and inure to the benefit of the Applicant and her heirs, personal representatives, executors, administrators, successors and assigns. A copy of this Ordinance and all subsequent orders and resolutions shall be filed for record in the Official Records of Volusia County, Florida.

(p) Reverter Provision: The City Commission may rezone any portion of the project which has not secured final plat approval on or before December 31, 1996 as may be necessary or appropriate to protect adjoining properties or the public health, safety and welfare, unless the City Commission, for good cause shown, shall extend the time period indicated in this paragraph.

Section 6. 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 7. 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 capacity.

Section 8. 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 9. This Ordinance shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this _____ day of _____, 1991.

Wiley M. Nash
Mayor-Commissioner

ATTEST:

Viola H. Ballentine
City Clerk - Auditor

Passed on first reading:
Adopted on second reading:

APPROVED AS TO FORM AND LEGALITY:

Astrid de Parry
City Attorney
CA/ORDINANC/MARSHPT

PLANNING DEPARTMENT STAFF REPORT
TO
CITY OF DELAND PLANNING BOARD

November 20, 1991

A. APPLICATION NO.: Z-91-02-01

APPLICANT: Harold Watson

REQUEST: PD, Planned Development, rezoning and conditions of development order.

APPLICABLE ORDINANCE: Chapter 33

B. SITE FACTORS:

LOCATION: NW of Marsh Road and U.S. 92/S.R. 600

PARCEL SIZE: 22.07 acres

EXISTING ZONING: PD zoning (Planned Development).

EXISTING USE: Vacant

SURROUNDING ZONING:

SURROUNDING USE:

NORTH - R-4 (Volusia Co.)

NORTH - Residential

SOUTH - I-1 (Volusia Co.)

SOUTH - Industrial

EAST - R-4 (Volusia Co.)

EAST - Residential

WEST - M-1

WEST - Industrial

C. LAND USE PLAN: "I", Industrial/Warehouse

D. ANALYSIS:

The original annexation application for the proposed Marsh Point Business Park requested M-1, Industrial, zoning. At the April 19, 1989 Planning Board Meeting, the DeLand Highlands Homeowner's Association opposed the M-1 zoning designation for several reasons: (1) compatibility of industrial and abutting residential land uses; (2) effects of noise and other pollution upon nearby residences; (3) the FAA mandated clear zone and its effect upon development; and (4) the impact of development upon the environment and the site. As a result of their concerns Mr. Watson agreed to request a nonresidential PD zoning designation.

The Planning Board recommended (5-1) that the City Commission approve the request for annexation with a PD zoning designation. The City Commission approved the annexation on June 5, 1989. The PD zoning category can be used to prohibit specific land uses which may be harmful to the environment or interfere with the utilization of nearby proper-

ties and thereby minimize the impact of the development. Staff feels that the PD zoning will permit the City to have the maximum control over the development and at the same time allow Mr. Watson the maximum utilization of his property.

Prior to annexation, the property had a Volusia County residential zoning designation but residential land usage is prohibited because over half of the property is inside the proposed airport clear zone. Development which could lead to large congregations is also prohibited within the clear zone. Staff feels that the proposed PD development plan addresses the development constraints of the site. A more gradual transition between industrial and residential land uses is achieved through the limitation of permitted land uses and by the provision of a large land use buffer area. In light of these considerations, staff recommends approval with the condition that an environmental consultant complete an assessment of the impact of development on the environment.

Mr. Watson, the applicant, is proposing to subdivide Phase I into 16 half acre lots. Permitted uses will include storage, warehousing, processing, and limited manufacturing. Phase I development is proposed for the northern half of the site (see attached map). The PD zoning with its inherent flexibility is needed to permit the highest utilization of the property which will not harm the environment. Section 33-24 contains the provisions of the City's PD regulations. Mr. Watson has submitted a package of materials to support the requested change of zoning. These materials include:

- EXHIBIT 1: PD Plan Report
- EXHIBIT 2: Proposed Drainage Plan
- EXHIBIT 3: Proposed Landscape Plan
- EXHIBIT 4: Conceptual Plan for Utilities
- EXHIBIT 5: Existing Conditions and Proposed Development Plan

The following is an analysis of Marsh Point Business Park's PD submittal:

1. Internal and External Compatibility: The proposed list of permitted land uses have been selected to maximize both internal and external compatibilities. Warehousing, processing and limited manufacturing are similar land uses which provide internal compatibility. Staff and the developer agreed upon a list of permitted uses which do not produce noise, smoke, electronic interference, or toxic chemicals. Prohibition of these uses makes the business park more compatible with the nearby airport, residential, and wetland areas. In addition, a 20' wide perimeter landscape buffer is proposed to improve external compatibility.

2. Intensity of the Development: The proposed development intensity is consistent with comp plan goals to concentrate industrial development in the airport vicinity.

3. Open Space Plan: The proposed open space and green areas will be limited to the entry features and any preservation areas. Staff feels this plan is adequate for an industrial business park.

4. Sidewalks and bike trails: Because this is a nonresidential facility, with heavy truck traffic, internal sidewalks are not a relevant issue. Staff recommends new external sidewalks along the west side of Marsh Road to provide continuous, safe pedestrian access from U.S. 92 to the nearby residential areas. Bike trails will not be provided in this nonresidential development.

5. Environmental constraints: Staff feels that the environmental constraints upon development should be clearly addressed in the development plan report prior to preliminary plat approval. First, the subject property contains some wetlands; however, most of these areas are limited to Phase II and wetland conservation plans will be examined further during the preliminary plat review for Phase II. Second, the development plan report does not clearly state whether there are any endangered or threatened species, flora, or fauna on this site. Prior to preliminary plat approval, the applicant will engage an environmental consultant to:

- a. determine the census of any endangered or threatened species, flora or fauna, on the property;
- b. determine the location of such species, flora or fauna; and
- c. provide documentation from the appropriate state agency approving a plan accommodating the species, flora or fauna, whether on- or off-site. Staff feels that when the development order is drafted, the environmental issues should also be addressed.

Third, any endangered wetland species should be identified. Are there any endangered wetland species such as:

- (a) eastern indigo snake;
- (b) Florida scrub jay;
- (c) wood stork;
- (d) Sherman's fox squirrel;
- (e) Florida black bear; and
- (f) gopher tortoises?

Fourth, soil limitations should be addressed. Fifth, a wetlands mitigation plan should be developed. Last, any conservation activities required for the protection of endangered plant or animal life should be outlined prior to preliminary plat approval.

6. Internal Access: Exhibit 5 depicts the proposed internal access. Staff has reviewed these plans and they appear to be adequate.

7. External Access: The proposed development plans depict the location of the entry-way. The proposed location of the driveway on Marsh Road provides safe access between U.S. 92 and the business park.

8. Off-street Parking: The proposed parking standards for the development outlined in the plan report have been reviewed by staff and are acceptable

9. Public facilities: Exhibit 4 shows the relationship between off-site utilities and the proposed development. The PD plan report also addresses traffic impacts on Marsh Road and U.S. 92. Additional capacity exists on both roadways. Staff has reviewed these documents and has determined adequate capacity exists to support this project.

10. Unified control: The applicant will maintain unified ownership until final plat approval is received.

11. Phasing of the development: The development is proposed to occur in two phases. Staff has no objection to the phasing scheme.

12. Tree protection: Most of the tree protection requirements will be met in Phase II where most of the specimen trees are located. However, additional tree protection will be located in the landscape buffer areas. A total of 3.6 acres of tree protection are proposed, which exceeds the required 15% area.

13. Legal description: A legal description has been provided.

14. Existing conditions: Existing conditions have been adequately addressed by the applicant in the development plan report.

15. Development plan map: Staff concurs with the proposed development plan map.

16. Statistical information: Page 15 of the PD report contains the statistical information which is relevant to this development.

17. **Drainage concept plan:** On the whole, the drainage concept plan was acceptable, but some modifications may be requested by the City Engineer prior to preliminary plat approval.

18. **Landscape plan:** Staff finds the landscape plan to be acceptable.

19. **Design standards:** Staff has reviewed the proposed design standards and finds them acceptable.

F. STAFF RECOMMENDATION:

Staff recommends that the Planning Board recommend conditional approval of the PD zoning request outlined in the attached development report. The conditions of approval of the PD zoning are that the applicant: (1) provide external sidewalks along the west side of Marsh Road, and (2) hire an environmental consultant to complete an assessment of environmental impact posed by this development. The report would be required prior to the preliminary plat approval of Phase I.

The environmental impacts of development should be clearly addressed in the development plan report prior to preliminary plat approval. First, the subject property contains some wetlands which should be evaluated. Second, the development plan report does not clearly state whether there are any endangered or threatened species. Prior to the preliminary plat approval of Phase I, the applicant will engage an environmental consultant to determine:

- a. the presence of any endangered or threatened species, flora or fauna, on the property;
- b. the location of such species; and
- c. the appropriate plan for accommodating the species, flora or fauna, whether on- or off-site. Staff feels that when the development order is drafted, the environmental issues should also be addressed.

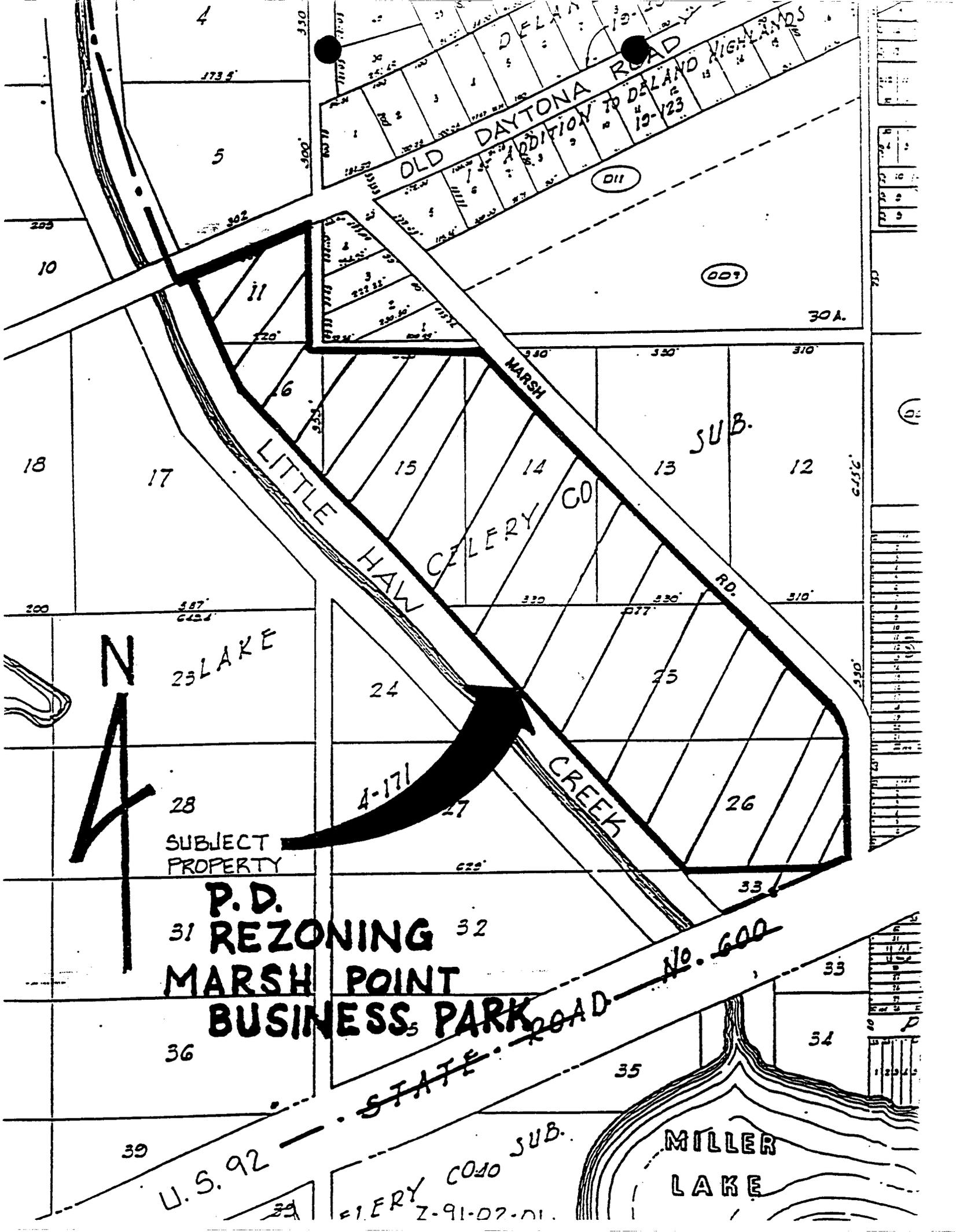
Third, any endangered wetland species should be identified. Fourth, soil limitations should be addressed. Fifth, a wetlands mitigation plan should be developed. Sixth, areas to be used for open spaces should be discussed. Last, any conservation activities required for the protection of endangered plant or animal life should be outlined prior to preliminary plat approval.

Based upon the concurrency requirements of the State of Florida and the City's concurrency management plan, approval of the proposed annexation does not automatically provide vested development rights. At the time the developer applies for a development permit, adequate infrastructure must exist to support the proposed development. If such infrastructure does not exist, the developer may be required to incur additional expense to ensure that the necessary infrastructure is provided.

Conditions for PD zoning Development Order

The following conditions, which address the Planning Board members concerns, were recommended to the City Commission:

- 1) The developer will install a 4' wide sidewalk along the east side of Marsh Road between U.S. 92 and Old Daytona Road.
- 2) The developer will obtain any property along the east side of Marsh Road for required sidewalk installation.
- 3) The developer will provide the City with access and maintenance agreements for the sidewalk.
- 4) The developer will provide covenants and deed restrictions for lots 26, 27, and 30 which limit the height of any outdoor storage to 8' within 15' of the lot lines abutting residential land uses.
- 5) In the PD zoning order, provide wording which limits the height of any outdoor storage to 8' within 15' of the rear lot lines for lots 26, 27, and 30. This will give the City two modes of enforcement.
- 6) The developer will provide documentation from a professional wildlife biologist or environmental consultant which addresses the environmental concerns outlined in the staff report to the Planning Board (enclosed).



OLD DAYTONA ROAD
ADDITION TO DELAND HIGHLANDS
19-23

LITTLE HAW CELERY CO
CREEK

**P. D.
REZONING
MARSH POINT
BUSINESS PARK**

SUBJECT
PROPERTY

STATE ROAD No. 600

U.S. 92

MILLER
LAKE



LAKE

4-171

No. 600

CELERY CO
Z-91-07-01

**AMENDED NOTICE
CITY OF DeLAND**

NOTICE IS HEREBY GIVEN that a Hearing will be held in City Hall, 120 South Florida Avenue, DeLand, Florida at a regular meeting of the City Commission on Monday, December 16, 1991, at 7:00 P.M. and a PUBLIC HEARING will be held in City Hall on Monday, January 6, 1992 at 7:00 P.M., for the purpose of approving or rejecting a PD, Planned Development, rezoning and consideration of a development plan for the subject property.

The property is described to wit:

All of Lots 11, 15 and 16 and that part of Lots 13, 14, 25, and 26, lying westerly of Marsh Road as now laid out, Blue Lake Celery Company Subdivision, According to the Plat Recorded in Map Book 4, Page 171, Public Records of Volusia County, Florida.

The property is further described to be located at the west side of Marsh Road, north of US 92, south of Old Daytona Road, east of Little Haw Creek. (22.07 acres)

Any person who wishes to appeal any decision made by the City Commission or Planning Board with respect to these matters will need a record of the proceedings and, therefore, may need to ensure that a verbatim record of the proceedings, including all testimony and evidence, is made.

Any person or persons interested in or having objections thereto are invited to attend the PUBLIC HEARING and be heard on this matter. Any inquiries should be made to the Planning Department at 736-3900 ext. 247.



Gary Schindler, AICP
Planning Director

DATED: November 27, 1991.

zone/ANTZ9101

CITY OF DELAND

DELAND, FLORIDA 32721



POST OFFICE DRAWER 449
TELEPHONE: (904) 736-3900
FAX: (904) 736-9819

November 25, 1991

Mr. Harold Watson
1171 Glenwood Trail
DeLand, FL 32720

RE: SSB-91-02 and Z-91-02-01; Marsh Point Business Park

Dear ~~Mr. Watson~~ *Harold*:

At their November 20, 1991, meeting the Planning Board reviewed two items regarding the proposed Marsh Point Business Park: (1) sketch plat and (2) PD zoning order. The Planning Board does not take official action on sketch plat applications but, rather, conceptually reviews the plat and indicates consensus. Although some concerns for surrounding property owners were discussed at length, the Planning Board members gave conceptual approval to the plat plan. At the same meeting, the PD zoning was forwarded to the City Commission with conditional approval. The following conditions, which address the Planning Board members concerns, were recommended to the City Commission:

- 1) The developer will install a 4' wide sidewalk along the east side of Marsh Road between U.S. 92 and Old Daytona Road.
- 2) The developer will obtain any property along the east side of Marsh Road for required sidewalk installation.
- 3) The developer will provide the City with access and maintenance agreements for the sidewalk.
- 4) The developer will provide covenants and deed restrictions for lots 26, 27, and 30 which limit the height of any outdoor storage to 8' within 15' of the lot lines abutting residential land uses.
- 5) In the PD zoning order, provide wording which limits the height of any outdoor storage to 8' within 15' of the rear lot lines for lots 26, 27, and 30. This will give the City two modes of enforcement.

Mr. Harold Watson
Marsh Point - Planning Board Review
November 25, 1991
Page 2

- 6) The developer will provide documentation from a professional wildlife biologist or environmental consultant which addresses the environmental concerns outlined in the staff report to the Planning Board (enclosed).

The application for review of the PD zoning order will be reviewed by the City Commission on December 2, 1991. If you have any questions, please don't hesitate to contact the planning department at 736-3900 extension 270.

Sincerely,



Abra Dow
Planner

AD:emm

Enclosure: Staff Reports

cc: Michael McMahan

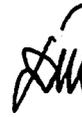
subdiv/sb9102L2

MEMORANDUM
PLANNING DEPARTMENT

November 25, 1991

FILE: Z-91-02-01

TO: Astrid de Parry, City Attorney
FROM: Gary Schindler, City Planner
SUBJECT: Preparation of Ordinance for Rezoning



Please prepare an ordinance for change of zoning with the following information:

ACREAGE: 22.07

LOCATED: Marsh Road, North of US 92, South of Old Daytona Road, East of Little Haw Creek, West of Marsh Road

PREVIOUS ZONING:

REQUESTED ZONING: PD, Planned Development

OWNER: Virginia M. Jacobs

PLANNING BOARD DATE: November 20, 1991

COMMISSION DATE: December 16, 1991

LEGAL DESCRIPTION ATTACHED.

LEGAL NOTICE ATTACHED.

zone/MZ9101

Minutes of the Planning Board Meeting

November 20, 1991

Page 4

5. SSB-91-02 Sketch Subdivision Review of 12.14 acres of property located northwest of the intersection of Marsh Road and US 92.

Abra Dow presented the staff report on the subject property and stated that the applicant was requesting a sketch plat review of Phase I concurrent with the PD rezoning application. Subsequently, the applicant will apply for preliminary plat review for Phase I. Staff was concerned about wetland and tree preservation, but Phase II contained adequate areas for preservation and the developer would preserve these areas until an assessment of the needs for environmental mitigation was completed. Currently, both phases were undeveloped.

Mr. Watson, the applicant, is proposing to subdivide Phase I into 16 lots. It is anticipated that Phase I will be close to completion of the final plat review process before Phase II begins its sketch plat review because an assessment of the environmental impacts of development upon the wetland and endangered species habitat will be required prior to completion of Phase I and commencement of Phase II.

Staff felt that the overall development concept was acceptable; however, the environmental issues should be further clarified prior to preliminary plat approval.

James Clayton, attorney for the developer, spoke in support of the proposed development saying that Mr. Watson will be providing buffers, sidewalks and fencing.

Virginia Bolek, representing the DeLand Highlands Homeowners Association, spoke in support of the development and commended the cooperation of Mr. Watson with the homeowners.

Although some concerns for surrounding property owners were discussed at length, the Planning Board members gave conceptual approval to the plat plan.

No vote was taken on this application.

6. Z-91-02-01 Petition for review of a PD, Planned Development, rezoning and consideration of a development plan for 22.07 acres of property located at the northwest intersection of Marsh Road and US-92

Abra Dow presented the staff report on the subject property. Ms. Dow reported that the original annexation application for the proposed Marsh Point Business Park requested M-1, Industrial, zoning; however, the DeLand Highlands Homeowner's Association opposed the M-1 zoning designation for several reasons: (1) compatibility of industrial and abutting residential land uses; (2) effects of noise and other pollution upon

nearby residences; (3) the FAA mandated clear zone and its effect upon development; and (4) the impact of development upon the environment and the site. As a result of their concerns Mr. Watson agreed to request a nonresidential PD zoning designation. Staff felt that the PD zoning would permit the City to have the maximum control over the development and at the same time allow Mr. Watson the maximum utilization of his property.

Prior to annexation, the property had a Volusia County residential zoning designation, but residential land usage is prohibited because over half of the property is inside the proposed airport clear zone. Development which could lead to large congregations is also prohibited within the clear zone. Staff felt that the proposed PD development plan addressed the development constraints of the site. A more gradual transition between industrial and residential land uses is achieved through the limitation of permitted land uses and by the provision of a large land use buffer area.

Mr. Watson, the applicant, is proposing to subdivide Phase I into 16 half acre lots. Permitted uses will include storage, warehousing, processing, and limited manufacturing.

Ms. Dow stated that the environmental impacts of development should be clearly addressed in the development plan report prior to preliminary plat approval. First, the subject property contains some wetlands which should be evaluated. Second, the development plan report does not clearly state whether there are any endangered or threatened species. Prior to the preliminary plat approval of Phase I, the applicant will engage an environmental consultant to determine:

- a. the presence of any endangered or threatened species, flora or fauna, on the property;
- b. the location of such species; and
- c. the appropriate plan for accommodating the species, flora or fauna, whether on- or off-site. Staff feels that when the development order is drafted, the environmental issues should also be addressed.

Third, any endangered wetland species should be identified. Fourth, soil limitations should be addressed. Fifth, a wetlands mitigation plan should be developed. Sixth, areas to be used for open spaces should be discussed. Last, any conservation activities required for the protection of endangered plant or animal life should be outlined prior to preliminary plat approval.

Staff recommended conditional approval of the PD zoning request outlined in the development report. The conditions of approval of the PD zoning are that the applicant: (1) provide external sidewalks along the east side of Marsh Road, and (2) hire an environmental consultant to complete an assessment of environmental impact posed by this development. The report would be required prior to the preliminary plat approval of Phase I.

James Clayton, attorney, objected to the cost of requiring the applicant to hire an environmental consultant.

Mike McMahan, engineer, said a study had already been done by Joe Young, environmental consultant.

Gary Schindler said the development plan did not contain any report from an environmental consultant but if one had been done by Joe Young, then a letter from him would be acceptable.

No one else wished to be heard.

James Ford moved to recommend conditional approval with the six stipulations outlined below. Mary McMahan seconded. The roll was called and the motion carried unanimously.

The conditions are as follows:

- 1) The developer will install a 4' wide sidewalk along the east side of Marsh Road between U.S. 92 and Old Daytona Road.
- 2) The developer will obtain any property along the east side of Marsh Road for required sidewalk installation.
- 3) The developer will provide the City with access and maintenance agreements for the sidewalk.
- 4) The developer will provide covenants and deed restrictions for lots 26, 27, and 30 which limit the height of any outdoor storage to 8' within 15' of the lot lines abutting residential land uses.
- 5) In the PD zoning order, provide wording which limits the height of any outdoor storage to 8' within 15' of the rear lot lines for lots 26, 27, and 30. This will give the City two modes of enforcement.
- 6) The developer will provide documentation from a professional wildlife biologist or environmental consultant which addresses the environmental concerns outlined in the staff report to the Planning Board.

CITY OF DELAND

DELAND, FLORIDA 32721



November 13, 1991

POST OFFICE DRAWER 449
TELEPHONE: (904) 736-3900
FAX: (904) 736-9819

Harold L. Watson
Watson Development Company
1171 Glenwood Trail
DeLand, FL 32720

RE: Petition for review of a PD, Planned Development, rezoning and consideration of a development plan for 22.07 acres of property located northwest of the intersection of Marsh Road and US 92.

Dear Mr. Watson:

Your above referenced application will be reviewed by the Planning Board on November 20, 1991, at 5:00 p.m. in the City Commission Chambers, City Hall, 120 S. Florida Ave., DeLand. You are encouraged to attend the meeting in order to answer any questions that may arise.

Enclosed is the Staff Report to the Planning Board regarding your application. If you have any questions, please feel free to contact the Planning Department at 904-736-3900 Ext. 209.

Sincerely,

Gary Schindler, AICP
Planning Director

GS:emm

Enclosure: Staff Report

subdiv/Z9101L

NOTICE
CITY OF DeLAND

NOTICE IS HEREBY GIVEN that a Hearing will be held in City Hall, 120 South Florida Avenue, DeLand, Florida at a regular meeting of the City Commission on Monday, December 2, 1991, at 7:00 P.M. and a PUBLIC HEARING will be held in City Hall on Monday, December 16, 1991 at 7:00 P.M., for the purpose of approving or rejecting a PD, Planned Development, rezoning and consideration of a development plan for the subject property.

An informal public hearing will be held at 5:00 P.M. in the City Commission Chambers on Wednesday, November 20, 1991, at a regular meeting of the DeLand Planning Board to consider the change of zoning request and to make a recommendation to the City Commission on whether to approve or deny the above request.

The property is described to wit:

All of Lots 11, 15 and 16 and that part of Lots 13, 14, 25, and 26, lying westerly of Marsh Road as now laid out, Blue Lake Celery Company Subdivision, According to the Plat Recorded in Map Book 4, Page 171, Public Records of Volusia County, Florida.

The property is further described to be located at the west side of Marsh Road, north of US 92, south of Old Daytona Road, east of Little Haw Creek. (22.07 acres)

Any person who wishes to appeal any decision made by the City Commission or Planning Board with respect to these matters will need a record of the proceedings and, therefore, may need to ensure that a verbatim record of the proceedings, including all testimony and evidence, is made.

Any person or persons interested in or having objections thereto are invited to attend the PUBLIC HEARING and be heard on this matter. Any inquiries should be made to the Planning Department at 736-3900 ext. 247.



Gary Schindler, AICP
Planning Director

DATED: November 13, 1991.

zone/NTZ9101

Virginia M. Jacobs
P.O. Box 476
DeLand, FL 32721

Alex B. Veech, et al Group 9
P.O. Box 457
DeLand, FL 32721

Virginia B. Steindorff
Life Estate
1826 Marsh Road
DeLand, FL 32724

Artie H. Sutton
Arthur L. Sutton
300 Duling Street
Madison, TN 37115

Susan K. Tidwell
1822 Marsh Road
DeLand, FL 32724

Raymond & Freida Shoemake
1826 Marsh Road
DeLand, FL 32724

Mary Ellen Larson
Joan K. Ziegler
3025 31st Street North
St. Petersburg, FL 32724

Joseph & Mary Szo^{Da}
1605 W. Old Daytona Road
DeLand, FL 32724

Doris E. Honing
1607 Old Daytona Road
DeLand, FL 32724

Aubrey & Minnie O. Lane
1609 Old Daytona Road
DeLand, FL 32724

Arthur H. Brown
P.O. Box 389
DeLand, FL 32721

Janice Penny
1602 Old Daytona Road
DeLand, FL 32724

Anthony & Hazel Decrenza
1604 Old Daytona Road
DeLand, FL 32724

George Davies Clark
1606 Old Daytona Road
DeLand, FL 32724

Laurie & Kenneth Dyer
1608 Old Daytona Road
DeLand, FL 32724

Mahlon & Jane Fauvel Greene
1612 Old Daytona Road
DeLand, FL 32724

Winifred C. Scheibener
1614 Old Daytona Road
DeLand, FL 32724

Messina Rose &
Mildred C. Cuoco
5726 SW 77 Terrace
Miami, FL 33143

Christine M. Recker
John E. Domingus
1903 Marsh Road
DeLand, FL 32724

Bruce Robert & Linda Wasson
1901 Marsh Road
DeLand, FL 32724

Sherwood Medical
Industries, Inc.
P.O. Box 2078
DeLand, FL 32721

Frank A. Ford Jr. et al
Group 9
P.O. Box 457
DeLand, FL 32721

DeLand Highlands
INCLUDE HOWA
VIRGINIA
BOLEK

734-2603

1860 Tulmadge
DeLand 32724

RECEIVED
NOV - 4 1991

List of adjacent property owners

1. Parcel No. 6026-01-00-0070
Virginia M. Jacobs
P.O. Box 476
DeLand, Florida 32721
2. Parcel No. 6026-01-00-0080
City of DeLand
P.O. Drawer 449
DeLand, Florida 32721
3. Parcel No. 6026-01-00-0120
Virginia M. Jacobs
P.O. Box 476
DeLand, Florida 32721
4. Parcel No. 6026-01-00-0330
Alex B. Veech, et. al. Group 9
P.O. Box 457
DeLand, Florida 32721
5. Parcel No. 6026-01-00-0400
Roy C. Mills Life Estate
c/o Jacki F. Sorensen
P.O. Box 1767
DeLand, Florida 32721
- * 6. Parcel No. 6035-00-00-0010
Grace Renard
c/o John Sabol
11320 SW 107th Ct.
Miami, Florida 33156
7. Parcel No. 6035-03-00-0010
Virginia B. Steindorff Life Estate
1826 Marsh Road
DeLand, Florida 32724
8. Parcel No. 6035-03-00-0020
Mary Ellen Larson & Joan K. Ziegler
3025 31st Street North
St. Petersburg Florida 33713
- * 9. Parcel No. 6035-03-00-0030
Joseph & Mary Szo Da SZODA
1605 W. Old Daytona Road
DeLand, Florida 32724
- * 10. Parcel No. 6035-03-00-0040
Doris E. Honing
1607 Old Daytona Road
DeLand, Florida 32724

VIRGINIA BOLEK
1860 TAMMADGE ST
DELAND, FL 32724

11. Parcel No. 6035-03-00-0050
Aubrey & Minnie O. Lane
1609 Old Daytona Road
DeLand, Florida 32724 *
12. Parcel No. 6035-04-00-0010
Arthur L. & Artie H. Sutton
300 Duling St.
Madison, Tn. 37115 ✓
13. Parcel No. 6035-04-00020
Susan K. Tidwell
1822 Marsh Road
DeLand, Florida 32724 ✓
14. Parcel No. 6035-04-00-0040
Raymond B. & Freida A. Shoemake
1826 Marsh Road
DeLand, Florida 32724 ✓
15. Parcel No. 6035-04-00-0051
Arthur H. Brown
P.O. Box 389
DeLand, Florida 32721
16. Parcel No. 6035-04-00-0060
Janice Penny
1602 Old Daytona Road
DeLand, Florida 32724 ✓
17. Parcel No. 6035-04-00-0070
Anthony R. & Hazel I. Decrenza
1604 Old Daytona Road
DeLand, Florida 32724 *
18. Parcel No. 6035-04-00-0080
George Davies Clark
1606 Old Daytona Road
DeLand, Florida 32724 *
19. Parcel No. 6035-04-00-0090
Laurie K. & Kenneth L. Dyer
1608 Old Daytona Road
DeLand, Florida 32724 *
20. Parcel No. 6035-04-00-0110
Mahlon M. & Jane Fauvel Greene
1612 Old Daytona Road
DeLand, Florida 32724 *
21. Parcel No. 6035-04-00-0120
Winifred C. Scheibener
1614 Old Daytona Road
DeLand, Florida 32724 *

22. Parcel No. 6035-06-00-0280
Messina Rose & Mildred C. Cuoco
* 5726 SW 77 Terrace
Miami, Florida 33143
23. Parcel No. 6035-06-00-0290
Christine M.Recker & John E. Domingus
* 1903 Marsh Road
DeLand, Florida 32724
24. Parcel No. 6035-06-00-0300
Bruce Robert & Linda Wasson
* 1901 Marsh Road
DeLand, Florida 32724
25. Parcel No. 6035-14-05-0010
✓ Mary S. Howarth
P.O. Box 146
DeLand, Florida 32721
26. Parcel No. 6035-14-10-0010
✓ Sherwood Medical Industries, Inc.
P.O. Box 2078
DeLand, Florida 32721

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1. Parcel No. 6026-01-00-0070
Virginia M. Jacobs
P.O. Box 476
DeLand, Florida 32721 ✓

2. Parcel No. 6026-01-00-0080
City of DeLand
P.O. Drawer 449
DeLand, Florida 32721 x ✓

3. Parcel No. 6026-01-00-0120
Virginia M. Jacobs
P.O. Box 476
DeLand, Florida 32721 ✓ x

4. Parcel No. 6026-01-00-0330
Alex B. Veech, et. al. Group 9 ✓
P.O. Box 457
DeLand, Florida 32721

5. Parcel No. 6035-04-00-0010 ✓
Virginia B. Steindorff Life Estate
1826 Marsh Road
DeLand, Florida 32724

6. Parcel No. 6035-04-00-0010 ✓
Arthur L. & Artie H. Sutton
300 Duling St.
Madison, Tn. 37115

7. Parcel No. 6035-04-00-0020 ✓
Susan K. Tidwell
1822 Marsh Road
DeLand, Florida 32724

8. Parcel No. 6035-04-00-0040 ✓
Raymond B. & Freida A. Shoemaker
1826 Marsh Road
DeLand, Florida 32724

9. Parcel No. 6035-14-05-0010
Mary S. Howarth
P.O. Box 146
DeLand, Florida 32721

6035-14-10-0010
SHERWOOD MEDICAL
INDUSTRIES
P.O. BOX 2078
DELAND, FL 32721

6035-04-00-0060
JALIE PENNY
1602 OLD DAYTONA RD
DELAND, FL. 32724

6035-04-00-0051
ARTHUR H. BROWN
P.O. Box 389
DELAND, FL. 32721

6035-03-00-0020
MARY ELLELI &
JOAN K. ZIEGLER
3025 31ST ST. N.
ST PETERSBURG, FL. 33713

6026-01-00-0400
ROY C MILLS, LIFE EST.
c/o JACKI F. SORESENEN
P.O. Box 1767
DELAND, FL. 32721

6026-01-00-0071
FRANK A FOED JR. ETAL
GROUP 9
P.O. Box 457
DELAND, FL. 32721

6026-01-00-0340
VIRGINIA JACOBS

List of adjacent property owners

1. Parcel No. 6026-01-00-0070
Virginia M. Jacobs
P.O. Box 476 ✓
DeLand, Florida 32721
2. Parcel No. 6026-01-00-0080
City of DeLand
P.O. Drawer 449 ×
DeLand, Florida 32721
3. Parcel No. 6026-01-00-0120
Virginia M. Jacobs
P.O. Box 476 ×
DeLand, Florida 32721
4. Parcel No. 6026-01-00-0330
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1826 Marsh Road
DeLand, Florida 32724
9. Parcel No. 6035-14-05-0010
Mary S. Howarth
P.O. Box 146
DeLand, Florida 32721

LETTER OF TRANSMITTAL

FROM: MTM & ASSOCIATES, INC
 125E INDIANA AVE.
 DELAND, FLA

DATE: 11/1/91 JOB NO.:
 RE: MARSH POINT
 PD ZONING

RECEIVED
 NOV - 1 1991

TO: CITY OF DELAND
 ADDRESS: P.O. DRAWER 449
 CITY: DELAND, FLORIDA
 ATTENTION:

PLEASE BE ADVISED:

WE ARE SENDING YOU ATTACHED UNDER SEPARATE COVER VIA _____ THE FOLLOWING:

BRINTS PLANS SHOP DRAWINGS SAMPLES SPECIFICATIONS

ARTWORK PROOFS PHOTOGRAPHS COPY OF LETTER CHANGE ORDER

| NO. | DATE | COPIES | DESCRIPTION |
|-----|----------|--------|--|
| 1 | 10/31/91 | 15 | MARSH POINT BPD PLANS (10 pages ea) w/ DEVELOPMENT REPORT |
| 2 | | | |
| 3 | | | |
| 4 | | | |
| 5 | | | |

THESE ARE BEING TRANSMITTED AS INDICATED BELOW:

AS REQUESTED APPROVED AS IS SUBMIT _____ COPIES FOR DISTRIBUTION

FOR APPROVAL APPROVED WITH CORRECTIONS RETURN _____ CORRECTED

FOR YOUR USE RETURNED WITH CORRECTIONS RETURNED AFTER LOAN TO US

FOR YOUR COMMENTS RESUBMIT _____ COPIES FOR APPROVAL

FOR BID(S) DUE

COMMENTS: AS DIRECTED BY HAROLD WATSON -
 ASTRID de PARRY TO HANDLE

SIGNED: *[Signature]*

PLANNING DEPARTMENT

MEMO TO FILE

DATE: October 3, 1991

RE: PSB-91-02; Marsh Point Business Park, Phase I, Revised Preliminary Subdivision Plat Review and review of October 1, 1991 letter from Michael T. McMahan, P.E.

1. The issue of stormwater discharge into Little Haw Creek remains unresolved.
2. Address pedestrian circulation along Marsh Road (Item #1 from 10/1/91 letter).
3. Tree survey and preservation is still unclear. (Item #2) Recommend the use of Phase II to meet tree protection requirements as previously discussed with Harold Watson.
4. Has the City committed to install a force main? (Item #4 from 10/1/91 letter)
5. Provide an outlet connection for an emergency generator at the lift station (related to Item #7 from 10/1/91 letter)
6. Coordinate lift station dimension and details with Keith Riger and Dick Moore, drawing indicates the pipe out of the lift station is 4" and will require a 6" pipe all the way to the wet well. (Item #8 and #9 from 10/1/91 letter)
7. Per Bill Wilkins, Fire Marshal, if a building is required to be sprinklered, a fire hydrant is required to be within 150' of the fire department connection if one does not exist. (Item #15 of 10/1/91 letter)
8. A list of specific uses agreed between Harold Watson and Gary Schindler must be incorporated into the PD document. (Item #17-19)
9. Need to further study parking specifications. (Item # 20 and #21)
10. Landscape, wetlands and environmental issues to be discussed with Gary Schindler at this time. (Item #28)

M\MARSHPT

Alra

MEMORANDUM
PLANNING DEPARTMENT

October 2, 1991

FILE: P-91-246

From: Nancy Brown, Technical Review Secretary

To: Public Service Engineer
Chief Building Official
Utility Engineer
Asst. Waste Water Director
Fire Marshal
Parks Superintendent
Planner.....
Other.....

Re: Z-91-02-01; Rezoning Development Plan Review for Marsh Point Business Park, and PSB-91-02, Revised Preliminary Plat Review for Marsh Point Business Park

On October 1, 1991, you were sent a review package for Marsh Point Business Park. In order to review the items addressed in the letter dated October 1, 1991 from Mike McMahan, I am also sending you a copy of the following:

1. Letter dated July 17, 1991 (From G. Schindler to M. McMahan)
2. Letter dated June 19, 1991 (From M. McMahan to G. Schindler)
3. Letter dated March 25, 1991 (From G. Schindler to M. McMahan)
4. Letter dated March 12, 1991 (From G. Schindler to M. McMahan)

Thanks

CITY OF DELAND

DELAND, FLORIDA 32721



POST OFFICE DRAWER 449
TELEPHONE: (904) 736-3900
FAX: (904) 736-9819

July 17, 1991

Mr. Michael T. McMahan, P.E.
125 East Indiana Avenue, Suite A
DeLand, Florida 32724

RE: PSB-91-02; Marsh Point Business Park

Dear Mr. McMahan:

I apologize for not getting this letter to you sooner, but the draft copy was overlooked and caused a delay in the process. However, the Technical Review Committee reviewed the above referenced Preliminary Plat on Thursday, June 27, 1991 and had the following comments:

Site Plan Revisions

Please revise the site plan to show the following:

1. Internal sidewalks will not be required by the City, however, pedestrian circulation must be addressed along both US 92 and Marsh Road.
2. The tree survey should clearly depict all specimen trees at or above 6" DBH which exist on-site and any other trees greater than 6" DBH which would be used to meet tree protection requirements. Staff questions the accuracy of the tree survey because existing internal trees which were noted during field inspections are not shown on the Phase I tree survey. Also, please address the following tree protection questions either on the plans or in writing:
 - a. Which trees will be removed?
 - b. How will the tree deficiency be met?
 - c. Which specific areas will be used for tree preservation in Phase I?
 - d. To meet the tree deficiency and preserve an adequate area the developer could do any of the following:
 - * use rear yards for tree protection areas;

- * plant two (2) trees in each front yard setback;
- * or seek a variance from the City Commission.

3. Extend the 12 inch water main north on Marsh Road to Old Daytona Road and connect to the proposed 6 inch pipe; ~~the 6 inch~~
4. Delete the force main, labeled "FM-4", extending from the lift station south on Marsh Road and west on U.S. 92, as it will not be required;
5. Prior to construction, the developer must enter into a utility service agreement with the City of DeLand concerning payments (if any) for up-sizing utilities, dedication of utilities to the City and provision of off-site utilities.
6. The property to the east of Marsh Road may soon develop. The City has no objection to a cooperative arrangements for up-sizing lift stations made between developers to serve more than one property, and in fact, would encourage this as it would reduce the number of lift stations ultimately owned by the city.
7. Provide an emergency generator ^{recapture} for the lift station;
8. Indicate east/west dimension for the lift station site.
9. Provide additional details on the lift station including manufacturer, make, and model.
10. See the City standard lift station details (attached). Please contact Keith Riger, City Engineer, for further details. (736-3900, ext 744);
11. Provided that water management district permits are issued, we have no objection to the stormwater design. It does not appear, however, that stormwater master planning has been done for the individual lots which are to be developed in the future. As currently designed, each lot developer will be responsible for construction of on-site stormwater retention. The "building pad" outlined in dashed lines on each lot may be unrealistic in light of requirements for on-site stormwater management.
12. There appears to be a conflict between the road section shown on sheet 6 and the section on shown on sheet 2. On sheet 2 a soil cement base is indicated, where on sheet 6 a lime rock base is indicated. Please resolve this dis-

crepancy. If soil cement is used, please specify sub-base composition and compaction requirements.

13. Provide detector wire in addition to warning tape for all water mains and force mains.
14. Although the site requires an eight inch (8") water main throughout the subdivision for proper circulation and fire protection, please show a twelve inch (12") water main and the City of DeLand will reimburse the developer for the cost difference. The City will prepare a utility/sewer agreement with provisions for the up-sizing payment.

Fire Department Comments

15. All buildings with sprinklers will require a fire hydrant within 150 ft. of the fire department connection.

Land Use Revisions

Please revise both the development plans and report to correctly state the land uses permitted in the business park. These land uses were discussed in Staff's letter dated 3/12/91 and in subsequent meetings with Mr. Watson.

16. Specifically prohibit all residential land uses whether primary or accessory to permitted uses for the entire development.
17. The land uses for the entire development shall be expressly limited to light industrial, wholesale, warehousing, heavy commercial, and contractor trade operations;
18. Land uses involving general retail or general service such as those listed in C-1 and C-2 zoning districts are prohibited as primary uses (see attachments: 33-11 and 33-12). Retail and service land uses are permitted only as an accessory to a primary permitted use.
19. On lot numbers 26, 27, and 30, the following uses shall be expressly prohibited:
 - a. cement manufacturing;
 - b. fertilizer manufacturing;

- c. storage of coal, coke, wood, or fuel;
- d. saw mills;
- e. uses with a restaurant cafe as an accessory use.

Parking Revisions

20. The parking requirements must be revised to eliminate all references to prohibited uses, such as: "dwelling", "general business" and the like. Parking requirements will be as follows:
- a) Contractor Offices: one parking space for each 200 square feet of office space and storage areas are subject to the parking requirements for warehouse space.
 - b) Warehouses: one space per 1,000 square feet of gross floor area for the first 20,000 square feet plus parking required for space devoted to other uses. One space per 2,000 square feet for the second 20,000 square feet and one space per 4,000 square feet of gross floor area in excess of 40,000 square feet.
 - c) Manufacturing: 1 parking space per 750 square feet of gross floor area devoted to manufacturing plus the required parking for square footage devoted to other uses.
21. Parking specifications shall be approved by the City Engineer.
22. Please address parking spaces for the handicapped.

Engineering Comments:

23. Along the closed portion of Old Daytona Road, the developer is required to connect to a six inch (6") water main located approximately 1200' west of the northwest property boundary and run the water main east from the south end of Phase I to Marsh Road, then south and connect on the north side of U.S. 92 to the City's new water main. A new City jack and bore with water main will be extended in the summer of 1991 (contact Keith Riger, City Engineer, for details).
24. Although not shown on the plans, it appears that a force main extending along the north edge of U.S. 92 is planned, please state clearly in the notes and on the plans whether the devel-

oper intends to hook up to the City's pump station at Langley Avenue. The City would like to up-size this force main to six and a quarter inches (6 1/4") and reimburse the developer for the cost difference. The City will draft a utility service agreement with provisions for the up-sizing payment. Please provide lift station pump specifications and further design details (see attachment).

25. Please dedicate all internal streets to the City of DeLand. The streets must be 24' wide and curb details are needed. Also, provide street names acceptable to Volusia County.
26. Address pedestrian transportation. Please provide a four foot (4') wide sidewalk along the west right of way for Marsh Road and a five foot (5') wide sidewalk in the landscape buffer at the property line along U.S. 92. Please provide access and maintenance agreements for both.

Landscaping Tree Preservation and Wetlands

27. Please develop further plans for tree protection which depict the eight (8) acres (or 356,546 square feet) identified on the tree protection work sheet (copy included). Also, indicate on a tree survey which specific trees and specimens will remain and which will be removed. Are pine trees included on the tree work sheet as existing trees utilized to meet protection requirements?
28. Please show clearly on the plans which lots are reserved for wetlands conservation and which will be developed. Include the proposed wetlands conservation area as well as the existing wetlands acreage.
29. Please provide an expanded narrative to describe the external landscape buffer, the entrance way, and buffering between internal land uses. Discuss the minimum landscape buffer requirements between internal land uses; the width of front, side, and rear buffers; numbers of trees and shrubs; and landscaping around vehicular use areas (in industrial use districts vehicular use landscaping may be reduced by one half).
30. Provide a letter stating that property owners will be subject to all applicable landscaping regulations, sign ordinances, and tree protection requirements (Chapters 33, 29, and 25 respectively).

Fire Department Comments:

31. All hydrant locations shall be marked using an approved reflector, blue in color, placed in the center of the driving lane closest to the hydrant.
32. As depicted on the plans, hydrant spacing is unacceptable. Please revise the plans to show a maximum of three hundred feet (300') between hydrants (N.F.P.A. 1141).
33. Flow shall be a minimum of 1,000 GPM with a residual pressure of 20 PSI. Please provide evidence that these standards can be achieved or address the improvements necessary to achieve them.

Environmental Issues and Wetlands Comments

34. Please provide documentation of the agency with jurisdiction over these wetlands;
35. Please provide County, SJRWMD, DER, USACOE wetlands mitigation permits, as required for this project. Until the limits of the jurisdictional wetlands are documented by these agencies, development approval cannot be obtained.

Your consultant as well as the City's consultant over the wetlands have both suggested the possibility of USACOE jurisdiction. Please provide a letter of determination.

36. Provide a DNR wetlands mitigation permit, as required;
37. The City will withhold any comments concerning the acceptability of using wetlands for stormwater retention for Phase II, but would like to have this issue addressed in the St. John's River Water Management District Permit. This issue will be addressed in a separate letter containing the environmental review comments.
38. The development report and the preliminary plat both identify portions of lot #7 which are contained in the boundary of the wetlands. Development on this lot may be delayed until the boundaries of the wetlands can be determined. On the final plat, the wetlands area shall be identified and measures acceptable to the City will be taken to preserve wetlands areas in their natural state. Covenants and deed restrictions shall also preserve this wetland area. Please document any applications which have been made regarding wetlands.

39. The City asks that you prepare a wetlands mitigation plan which will be reviewed and approved prior to the development of Phase II by the City, DER, SJRWMD, and the Army Corps of Engineers.
40. Staff has seen the note regarding flood plain areas, but would like documentation that the subject property does not contain any 100 year flood plain areas.

General Comments and Revisions

41. Preliminary plat approval is good for only one year.
42. Prior to the recording of the plat, the developer will prepare covenants and deed restrictions acceptable to the City of DeLand on the following topics utilizing the guidelines presented in this letter:
 - traffic
 - setbacks
 - parking
 - landscaping
 - tree protection
 - sign ordinances
 - common space maintenance
 - wetland conservation
 - endangered species and habitat protection
 - and other covenants or deed restrictions as stated in this letter.
43. Prior to the recording of the final plat, all infrastructure improvements must be in place or bonded at 110% of the actual cost of improvements.
44. Prior to the City's acceptance of the infrastructure plan, please provide a maintenance bond of 10% of the actual cost of infrastructure.
45. Prior to the recording of the plat, the developer will pay the infrastructure inspection fee which will be equal to 1.5% of the actual cost of infrastructure or \$500 whichever is greater.
46. In the development report, provide a statement that the City will not be responsible for the maintenance of common space areas including stormwater retention areas. If the lots are to be sold separately, please provide an agreement for the maintenance of all common areas: the perimeter landscape

buffer; tree protection area(s); wetlands conservation area; roadways; cul-de-sacs; and any other open spaces.

47. According to the agencies of jurisdiction, no applications have yet been made for the necessary permits. Please provide a copy of the applications for the following permits:
- a) Water Distribution System Permit from DER;
 - b) Wastewater Transmission and Collection Permit;
 - c) Dredge and Fill Permit for Waterline and Force Main crossing of Little Hawk Creek from DER and the U.S. Army Corps of Engineers;
 - d) Surface water permit from St. John's River Water Management District; and
 - e) Stormwater and runoff permit from St. John's River Water Management District.
48. In the narrative, the covenants, and the deed restrictions, please add a statement to the effect that land uses which produce hazardous waste will not be permitted to locate on any lot adjacent to the wetland area.
49. Please address phasing: identify all necessary infrastructure improvements by the phase of construction.

If you have any questions, please feel free to contact me at the planning department, 736-3900, extension 247.

Sincerely,



Gary M. Schindler, AICP
Planning Director

GMS:ngb

Attachments

cc: Keith Riger
Peter Burbine
Abra Dow

June 19, 1991

RECEIVED
JUN 20 1991

Mr. Gary Schindler, AICP
Planning Director
City of DeLand
Post Office Drawer 449
DeLand, Florida 32721

RE: Marsh Point Business Park Planned Development
Project #89324

Dear Mr. Schindler:

I am submitting, herein, eight (8) copies of revised plans and development report addressing those items mentioned in your letters of March 12, 1991 and March 25, 1991.

For your convenience, I have commented below on some of the City's staff statements regarding this development:

1. Land Uses: Land uses for this development are stated on the plans. Conversations with the adjacent property owners by Mr. Watson have confirmed that they have no objection to the listed uses.
2. Revisions to uses on Lots 26, 27 and 30 have been revised as requested.
3. Parking requirements have been amended as requested.
4. Setbacks have been amended as requested.
5. The Southern Bell easement is a portion of Lot #15. The site plan for this establishment has already been reviewed and approved by staff. The easement area has been designated on the drawings as Southern Bell use.
6. Fencing has been amended as requested.
7. No guard shacks are planned for the entrance.

8. Phase II will be developed in the future at the discretion of H.L. Watson Development Company.
9. Covenants and Deed Restrictions are being addressed by the developer's attorney.
10. Impact and Inspection fees will be addressed directly by the developer.
11. Permits for Water, Wastewater and Stormwater will be provided to the City prior to construction.
12. No Hazardous Waste Generating Uses are proposed for this development.
13. The preliminary lots shown on the drawings in Phase II will be addressed during the Phase II submittal. The parcel shown on the southwest portion of the property is not part of Marsh Point Business Park and is owned by another entity.
 - a. Marsh Point Business Park, Phase II, does not front on U.S. Highway 92.
 - b. As for the Southern Bell building and easement, see comment 5.
14. Statistical information has been revised accordingly.
15. No endangered species were observed on the project property.
16. No wetland mitigation is proposed for Phase I due to no construction within wetlands.
17. A statement regarding building standards has been added to the drawing.
18. An offsite utility plan drawing has been added to the set of drawings. This drawing is a result of conversations with the City's Engineering and Public Works Departments.

19. A street name has been added to the plan. This name was cleared with Mr. Bill Greiff of Volusia County Planning and Zoning Department.
20. We question the wisdom of adding pedestrian walkways within and adjacent to a business park and have deferred adding sidewalks to the plan until directed by the County in our Use Permit application.
21. Avagation easement negotiations are being addressed directly by Mr. Watson.
22. Secondary means of ingress have been indicated on the drawings as requested.
 - a. Subject easement has been designed to be stabilized as shown on the drawings.
 - b. Exclusive use of emergency easements will be provided by a break-a-way 4x4 post and chain.
 - c. Subject easements will be grassed and mowed.
23. The plans show those trees to be removed. Tree protection areas are contained within the landscape buffers. No further details regarding trees are scheduled for this submittal.
24. No wetlands are within Phase I construction.
25. Deed Restrictions regarding landscape requirements are being drafted by the developer's attorney. We will forward them to the City upon receipt.
26. Location and marking of fire hydrants have been amended as requested.
27. Deed Restrictions addressing sprinkler systems within the building are being drafted

by the developer's attorney.

28. The City is currently making capital improvements to the water distribution system that should supply more than a sufficient amount of water to the site.
29. The subject property is not within the 100 year flood plain as evidenced by the F.I.R.M map supplied with the Stormwater calculations.
30. The Marsh Point property was formerly zoned agricultural and did not require permitting prior to pulp wooding the property. My client has no intention of mitigating activities accomplished prior to the submittal of our sketch plan and subsequent application for annexation.
31. The wetland boundary depicted on the drawings was that established by Lorne Malo of the SJRWMD/DER and Joe Young of Ecoshores. Survey data regarding the established boundary was supplied by Arthur W. Steinman & Associates. Although Mr. Young indicated that the USACOE had previously established buffer areas of up to 200 feet wide on other projects, he felt that 25 feet would probably be used in this case. We have endeavored to keep all development in Phase I outside the 25 foot buffer zone.
32. Little Haw Creek Canal has been declared by FDER to be jurisdictional wetlands. As you may notice on the drawings, our client has graciously granted a 100 foot easement for the canal. This easement is generally centered along the meandering path of the canal. Survey information regarding the easement is available from Arthur W. Steinman & Associates.
33. The proposed stormwater retention/detention system is outside the canal easement and is not within any designated wetland.

34. As a professional engineer I am cognizant of the requirements of the State of Florida regarding stormwater treatment. No treatment is proposed within wetlands nor waters of the State.
35. Mitigation of wetland impacts for Phase II development will be addressed at the time of submittal of Phase II drawings.

We hope the above information is sufficient for a favorable recommendation from City staff. Should you have questions or wish to discuss any of these matters in further detail, please call me at 904-738-0462. Your consideration in these matters would be greatly appreciated.

Sincerely,



Michael T. McMahan, P.E.

MTM;vp

cc: Mr. Harold L. Watson, Developer

CITY OF DELAND

DELAND, FLORIDA 32721



POST OFFICE DRAWER 449
TELEPHONE: (904) 736-3900
FAX: (904) 736-9819

March 25, 1991

Michael T. McMahan, P.E.
Davis, McMahan, Rogers, and Associates, Inc.
125 East Indiana Avenue, Suite A
DeLand, Florida 32724

RE: Z-910222: Marsh Point Business Park Planned Development

Dear Mr. McMahan:

The City of DeLand employed the Environmental Consulting Group to conduct a review of the Development Plan Report for Marsh Point Business Park. The review examines information sufficiency and makes environmental recommendations. The review does not include an assessment of the environmental conditions or provide any wetlands delineation.

The Marsh Point Business Park property is approximately 22 acres in size affronting Old Daytona Road, Marsh Road and US Highway 92 on the north, east and south sides, respectively. The west property boundary is along Little Haw Creek. The contour of the property falls toward Little Haw Creek. The property contains both uplands and wetlands with uplands consisting of scattered pine and dense saw palmetto. Wetlands consist of a forested area of loblolly bay along Little Haw Creek. One notable area (a bayhead) occurs in Phase II of the development. Areas immediately landward of the bayhead would be characterized as a seepage slope wetland, vegetated by a mixture of pine, loblolly bay and gallberry. Some land clearing has taken place along these seepage slope wetlands. The Soil Conservation Service soils map indicates that hydric (wetland) soils cover a significant portion of the property.

Wetland Boundary (Wetland Protection Zone)

The site plan does not identify the source/method of the wetland determination, but the Development Plan Report (letter from Ecoshores, Inc., 10/0/89) identifies the wetland boundary to be the FDER jurisdictional limits. The consultant's review of the Ecoshores letter both indicate that the USACOE wetlands boundary could extend landward of the DER wetland line. Although the surveyed wetland (DER line) is solely within the Phase II area, the USACOE (and possibly the DER/SJRWMD) wetland boundary would appear to extend into the western portion of Phase I along Little Haw Creek canal. The wetland area appears to include portions of lots 1 - 7 and the stormwater retention area. Therefore, not only will DER require authorization for the water line and force main cross-

Michael T. McMahan, P.E.

RE: Z-910222: Marsh Point Business Park Planned Development

March 25, 1991

Page 2 of 3

ing Little Haw Creek, but will also require authorization for the development of lots, roads and stormwater retention ponds in jurisdictional vegetative wetlands. The applicant should address the appropriateness of using waters of the State for stormwater retention.

Since a portion of the property has been cleared, the applicant should rely on soils, hydrology and vegetative species which have recovered as wetland indicators.

Wetland Transition Zone

As identified in both the adopted comp plan and the proposed land development regulations, the purpose of this zone is to ensure the continuing function of the Wetland Protection Zone. This zone, therefore, serves as a buffer and may be as wide as 200 feet, but no less than 25 feet. The applicant has not addressed this in the Development Plan Report. Due to the steep land contours, it is anticipated that a wetland protection zone will be necessary. Since land clearing has taken place along the edge of the wetlands and may have extended into wetlands, replanting of the Protection and Transition Zones may be necessary.

In summary, please submit the following:

1. a map of the wetlands delineating the wetland boundaries in accordance with the adopted comp plan and the proposed land development regulations and provide verification of these boundaries by regulatory agencies (DER, SJRWMD and USACOE);
2. a description of the existing and precleared conditions of the site including vegetative communities and hydrological conditions;
3. a description of wetlands which can be used to assess whether or not the development meets the criteria of the comp plan and the proposed land development regulations regarding professional standards for development within wetland protection and wetland transitional zones. In particular, the proposed stormwater retention area in wetlands and its impact(s) to wetlands (Waters of the State) and methods to offset impacts resulting from all development aspects of Phase I and Phase II encroachment into wetlands need to be addressed. Impacts to be considered include water quality, hydrology, habitat and vegetation. It is anticipated that mitigation for Phase II development will be required at a minimum ratio of 1:1.

Michael T. McMahan, P.E.

RE: Z-910222: Marsh Point Business Park Planned Development

March 25, 1991

Page 3 of 3

Endangered and Threatened Species

The development plan report does not address whether or not the site serves as potential habitat or is habitat for species listed by the Florida Game and Fresh Water Fish Commission as Endangered (E), Threatened (T) or Species of Special Concern (SCC). The site review found gopher tortoise burrows on the property. These burrows were assumed to be abandoned; however, active or inactive burrows may occur on site. Should E, T, or SSC species occur on site, a habitat management plan following the criteria of 33.04 as well as GFC and US Fish and Wildlife Service criteria will be required. The management plan should consider the precleared site conditions and habitat requirements for the listed species that will be assessed by state and federal agencies.

If after reviewing this information you have any questions, please feel free to contact the City's consultant, Reese H. Kessler, of Environmental Consulting Group, Inc., at (407) 696-4222 or me at 736-3900, extension 247.

Sincerely,



Gary M. Schindler, AICP
Planning Director

GMS:ngb

cc: Harold Watson
James Clayton
Hal Pyke
Astrid de Parry

Attachment: Ecoshores Letter

L\Z910222L

CITY OF DELAND

DELAND, FLORIDA 32721



POST OFFICE DRAWER 449
TELEPHONE: (904) 736-3900
FAX: (904) 736-9819

File

March 12, 1991

Michael T. McMahan, P.E.
Davis, McMahan, Rogers, and Associates, Inc.
125 East Indiana Avenue, Suite A
DeLand, Florida 32724

Dear Mr. McMahan:

The Marsh Point Business Park development plan and report prepared by Davis, McMahan, Rogers, and Associates was received on February 25, 1991. This site plan was reviewed by the City of DeLand's Department Heads and the revisions enumerated below are required prior to site plan approval. These comments and revisions should be applied uniformly to both the narrative of the development report and the site development plan.

From the Planning Department:

Land Uses:

- * The land uses for the entire development shall be expressly limited to light industrial, wholesale, warehousing, heavy commercial, and contractor trade operations (see attachments: 33-12 and 33-11 except (A) (1)).
- * No land uses involving general retail or general service, such as the land uses listed in the C-1 and C-2 zoning districts (see attachments: 33-9 and 33-10). Also, no residential uses will be permitted.
- * Due to the proximity of lots #26, #27, and #30 to the abutting residential areas, the following uses will not be permitted on those lots:
 - 1) cement manufacturing;
 - 2) fertilizer manufacturing;
 - 3) saw mills;
 - 4) the storage of coal, coke, wood, or fuel; and
 - 5) uses which have a restaurant or a cafeteria as an accessory use.

*retail or
access "
only.*

OK

OK

OK

**
proposed
**

Parking Comments:

* The parking requirements must be revised to eliminate all references to prohibited uses, such as: "dwelling", "general business" and the like. Parking requirements will be as follows:

6/20
1/200 #
a) Contractor Offices: one parking space for each 200 square feet of office space and storage areas are subject to the parking requirements for warehouse space. 250?

OK b) Warehouses: one space per 1,000 square feet of gross floor area for the first 20,000 square feet plus parking required for space devoted to other uses. One space per 2,000 square feet for the second 20,000 square feet and one space per 4,000 square feet of gross floor area in excess of 40,000 square feet.

OK c) Manufacturing: 1 parking space per 750 square feet of gross floor area devoted to manufacturing plus the required parking for square footage devoted to other uses. OK

OK * Parking specifications shall be approved by the City Engineer. OK

OK * Please address parking spaces for the handicapped. OK

Site Plan Revisions:

* The PD zoning regulations require that the building setbacks conform with those of the abutting districts. In addition to the twenty foot (20') landscape buffer depicted on the plan, the following setbacks, measured from the lot lines, apply to this project:

OK a) Along Old Daytona Road: lots #29 & #30 will have a minimum rear yard setback of thirty feet (30').

OK b) Along the canal easement: all lots will have a minimum rear yard setback of twenty-five feet (25').

OK c) Along the residential edges: lots #26, #27, and #30 will have minimum building setbacks of thirty feet (30').

OK d) All other building setbacks discussed in "Development Building Standards" are acceptable; however, the site plan does not show setbacks of these dimensions (i.e.: minimum side yards of fifteen feet (15') per lot). OK

OK * Please show and address the Southern Bell equipment building located near the southeast corner of the project. OK

Grand
Total = 35'

OK * Please show on the site plan all fences and visual screens required to buffer the abutting residential areas. These fences must be seven feet (7') in height, not six feet. OK

OK * Please indicate whether or not a guard shack will be located on the property. If so, indicate its placement on the site plan. OK

General Comments and Revisions:

OK * Preliminary plat approval is good for only one year. If you get preliminary plat approval for Phase II now, then you must request, annually, that the City Commission extend the life of the preliminary plat.

* Prior to the recording of the plat, the developer will prepare covenants and deed restrictions acceptable to the City of DeLand on the following topics utilizing the guidelines presented in this letter:

- traffic
- setbacks
- parking
- landscaping
- tree protection
- sign ordinances
- common space maintenance
- wetland conservation
- endangered species and habitat protection
- and other covenants or deed restrictions as stated in this letter.

? * Prior to the approval of the PD zoning designation, the applicant must reimburse the City for the cost of all environmental reviews incurred by the City.

* Prior to the recording of the final plat, all infrastructure improvements must be in place or bonded at 110% of the actual cost of improvements.

* Prior to the City's acceptance of the infrastructure plan, please provide a maintenance bond of 10% of the actual cost of infrastructure.

* Prior to the recording of the plat, the developer will pay the infrastructure inspection fee which will be equal to 1.5% of the actual cost of infrastructure or \$500 whichever is greater. OK

* Please provide a statement that the City will not be responsible for the maintenance of common space areas including stormwater retention areas. If the lots are to be sold separately, please provide an agreement for the maintenance of all common areas: the perimeter landscape buffer; tree protection area(s); wetlands conservation area; roadways; cul de sacs; and any other open spaces.

* According to the agencies of jurisdiction, no applications have yet been made for the necessary permits. Please provide a copy of the applications for the following permits:

- a) Water Distribution System Permit from DER;
- b) Wastewater Transmission and Collection Permit;
- c) Dredge and Fill Permit for Waterline and Force Main crossing of Little Hawk Creek from DER and the U.S. Army Corps of Engineers;
- d) Surface water permit from St. John's River Water Management District; and
- e) Stormwater and runoff permit from St. John's River Water Management District.

* see Kessler's letter: auth. for dev. of lots, roads, & sw ret pond-
with jurisdictional wetlands (vegetative)
* Mitigati
* SWR
PH I
* Pls.
begin
now

* In the narrative, covenants, and deed restrictions, please add a statement to the effect that land uses which produce hazardous waste will not be permitted to locate on any lot adjacent to the wetland area.

* The preliminary plat plan shows a number of lots which are not identified or discussed. For example, lots on the southwest corner of the property are not numbered or labeled for conservation. The Southern Bell equipment building is not shown either. Please identify and discuss all parcels and their uses.

* The statistical information provided is inaccurate. For example, Phase I and II acreage add up to 21.04 acres but the total acreage is listed as 22.07 acres (please correct these numbers on the plans and in the text). The calculations use 30 units because the Southern Bell equipment building is not included. Please depict and include that building and use 31 units in any calculations. Density is a measure most commonly associated with residential dwelling units and is an interesting but unnecessary calculation for the review of a business park site plan.

* Please address phasing: identify all necessary infrastructure improvements by the phase of construction.

* Please address endangered species and habitat protection (see attachments). These issues should be addressed in the wetlands mitigation plan.

* Please state that all buildings will meet the minimum requirements of the Southern Building Codes and Standards for Construction, latest edition.

From the Engineering Department:

* Although the site requires an eight inch (8") water main throughout the subdivision for proper circulation and fire protection, please show a twelve inch (12") water main and the City of DeLand will reimburse the developer for the cost difference. The City will prepare a utility/sewer agreement with provisions for the upsizing payment.

* Along the closed portion of Old Daytona Road, the developer is required to connect to a six inch (6") water main located approximately 1200' west of the northwest property boundary and run the water main east from the south end of Phase I to Marsh Road, then south and connect on the north side of U.S. 92 to the City's new water main. A new City jack and bore with water main will be extended in the summer of 1991 (see attachment).

* Although not shown on the plans, it appears that a force main extending along the north edge of U.S. 92 is planned, please state clearly in the notes and on the plans whether the developer intends to hook up to the City's pump station at Langley Avenue. The City would like to upsize this force main to six and a quarter inches (6 1/4") and reimburse the developer for the cost difference. The City will draft a utility service agreement with provisions for the upsizing payment. Please provide lift station pump specifications and further design details (see attachment).

* Please dedicate all internal streets to the City of DeLand. The streets must be 24' wide and curb details are needed. Also, provide street names acceptable to Volusia County.

* Address pedestrian transportation. Please provide a four foot (4') wide sidewalk along the west right of way for Marsh Road and a five foot (5') wide sidewalk in the landscape buffer at the property line along U.S. 92. Please provide access and maintenance agreements for both.

MUS
2:
note
Sheet 41a
Plans
show
8" w/m

Sheet
41a

of
Afm

Account
4
to

OK

- att*
- * An avagation easement is required between the City and the developer. Please contact Mr. Leo Connor, Economic Development Director for the City of DeLand, concerning this matter.

From the Parks and Recreation Department:

- * The developer will provide a second means of ingress/egress in Phase I which will run north/south from Old Daytona Road and an easement on the street side in Phase II. Both easements will be provided for use by emergency vehicles only and subject to the following:

- a) Stabilize the emergency entrance easements for emergency vehicular use (20 tons) and show a detailed plan for stabilization.
- b) Provide a narrative and detail explaining how these easements will be maintained for the exclusive use of emergency vehicles. How will other vehicular uses be prevented?
- c) Provide landscaping details for both emergency entrance easements.

- * Please develop further plans for tree protection which depict the eight (8) acres (or 356,546 square feet) identified on the tree protection worksheet (copy included). Also, indicate on a tree survey which specific trees and specimens will remain and which will be removed. Are pine trees included on the tree worksheet as existing trees utilized to meet protection requirements?

- * Please show clearly on the plans which lots are reserved for wetlands conservation and which will be developed. Include the proposed wetlands conservation area as well as the existing wetlands acreage.

- * Please provide an expanded narrative to describe the external landscape buffer, the entrance way, and buffering between internal land uses. Discuss the minimum landscape buffer requirements between internal land uses; the width of front, side, and rear buffers; numbers of trees and shrubs; and landscaping around vehicular use areas (in industrial use districts vehicular use landscaping may be reduced by one half).

- * Provide a letter stating that property owners will be subject to all applicable landscaping regulations, sign ordinances, and tree protection requirements (Chapters 33, 29, and 25 respectively).

From the Fire Department:

- TBD
3/12/91
- * All hydrant locations shall be marked using an approved reflector, blue in color, placed in the center of the driving lane closest to the hydrant.
 - * As depicted on the plans, hydrant spacing is unacceptable. Please revise the plans to show a maximum of three hundred feet (300') between hydrants (N.F.P.A. 1141).
 - * Any buildings that are sprinklered will require a fire hydrant located within one hundred and fifty feet (150') of the fire department connection for the sprinkler system.
 - * Flow shall be a minimum of 1,000 GPM with a residual pressure of 20 PSI. Please provide evidence that these standards can be achieved or address the improvements necessary to achieve them.

Environmental Issues:

- OK
- * The City of DeLand's environmental consultant cannot comment on this project due to a potential conflict of interest. As a result, another consultant has been hired to review this project's environmental impacts. Since he was included in the review process at a later date, his comments will follow under separate cover.
 - OK * At this time, the City will withhold any comments concerning the acceptability of using wetlands for stormwater retention for Phase II. This issue will be addressed in a separate letter containing the environmental review comments.
 - doesn't plan to mitigate
↓ * The development report and the preliminary plat both identify portions of lot #7 which are contained in the boundary of the wetlands. On the final plat, the wetlands area shall be identified and measures acceptable to the City will be taken to preserve this area in a natural state. Covenants and deed restrictions shall also preserve this wetland area. Please revise the narrative to address this area.
 - * The City asks that you prepare a wetlands mitigation plan which will be reviewed and approved prior to the development of Phase II by the City, DER, SJRWMD, and the Army Corps of Engineers.

Mr. H. L. Watson
March 12, 1991
Page 8

Mike
says
no.

* The City questions whether the property contains any 100 year flood plain areas (see attached map).

If any questions should arise after reviewing these comments and revisions, please do not hesitate to call Abra Dow or Gary Schindler at the City of DeLand Planning Department (telephone # 904-736-3900, extension 270).

Sincerely,

G. M. Schindler
Gary Schindler, AICP
Planning Director

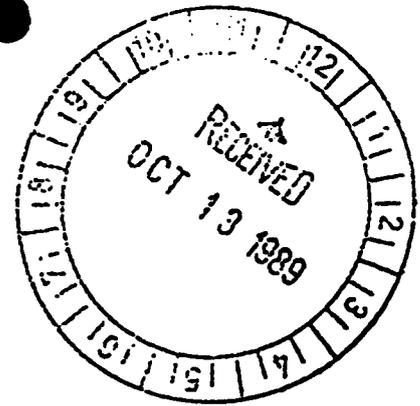
attachments

cc: Mr. H. L. Watson, Developer
Mr. Reese Kessler, Environmental Consultant
Ms. Astrid deParry, City Attorney



Design for man in harmony with nature

ECOSHORES Inc.



October 9, 1989

Harold Watson
1171 Glenwood Trail
Deland, Florida 32720

Ref: Marsh Point Business Park Jurisdictional Wetland Limitations.

Dear Mr. Watson,

I'm writing in reference to the aforementioned project and the wetland that exist on the south half of the site.

The S.J.R.W.M.D., has indicated that the line I've flagged is the landward extent of waters of the state (ie. F.D.E.R. dredge/fill jurisdictional), and that if this project stays as a 40-C-42 stormwater permit then they will not expand the wetland area. These areas have hydric soils and wetland vegetation that they (S.J.R.W.M.D.) can claim.

The F.D.E.R. dredge and fill jurisdiction determination was made because of the ditch which conveys water from Little Haw Creek, and which connects vegetatively to the bay head on site.

The U.S.A.C.O.E. has not been to review the site at your request. I would expect the U.S.A.C.O.E. to claim everything that is shown as F.D.E.R. plus the areas that are interior on the site that the F.D.E.R. could not claim. The attached soils map indicates the soils (#61,56) are hydric or have hydric componets which support wetland species. Permitting fill is a possibility in some of the fringe F.D.E.R. areas, but I would expect the agency to require mitigation for those impacts.

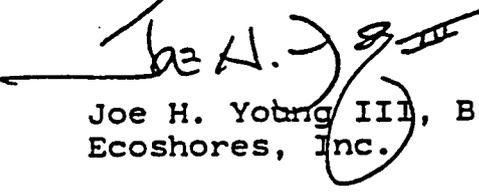
You can provide that mitigation by either planting shorelines in your retention areas (if wet detention is used) or by simply scraping down the existing berms adjacent to the ditch to a wetland species habitat elevation and planting in those areas. I would suggest proposing the latter. You may need a combination of the two to come up with the required area especially if a 2:1 ratio is imposed on your site.

I'd appreciate being copied on your plan so that if you intend to proceed with your project I might be aware of your proposal to the St. John's River Water Mgmt. District staff.

Additionally the areas you are talking about impacting will require U.S.A.C.O.E. review and permitting.

Thank you for your consideration with this project.

Sincerely,



Joe H. Young III, B.S.
Ecoshores, Inc.

JHY/mn

cc: M. McMahan w/att
file

SITE PLAN AND SUBDIVISION
ACTION REQUEST FORM

From: Planning Director

Date: October 1, 1991

To: Public Service Engineer
Chief Building Official
Utility Engineer
Asst. Waste Water Director
Fire Marshal
Parks Superintendent
Planner.....
Technical Review Secretary
Other.....

- Site Plan -

Re: Z-91-02-01; Rezoning Development Plan Review for Marsh Point Business Park, and PSB-91-02, Revised Preliminary Plat Review for Marsh Point Business Park.

The above referenced revised site plan will be reviewed on Thursday, October 3, 1991, at 2:00 PM. Please have your written comments for me at that time.

GMS:nb

Attachments: Letter from M. McMahan of Oct. 1, 1991
Development Plan Report
Site Plans

MICHAEL T. McMAHAN, P.E.
CONSULTING ENGINEER

125 E. Indiana Avenue
DeLand, Florida 32724
904-738-0462

October 1, 1991

RECEIVED
OCT 01 1991

Mr. Gary Schindler
Planning Department
Post Office Drawer 449
DeLand, Florida 32721-0449

RE: Marsh Point Business Park
Project #89324

Dear Mr. Schindler:

Please find enclosed fifteen (15) copies of the revised site plan and eight (8) copies of the revised Development Report. Please notify us when the staff has approved the report and we will submit additional copies.

Per our meeting held August 21, 1991, with Mr. Harold Watson, we have addressed the items listed in your letter of July 17, 1991, as follows:

- Item 1: This matter will be addressed by Mr. James Clayton.
- Item 2: There are no trees designated for removal other than those in the road rights-of-way.
- Item 3: Discussions with Mr. Keith Riger allow omission of this item.
- Item 4: The forcemain was removed.
- Item 5: The developer agrees.
- Item 6: The Liftstation has been upsized.
- Item 7: Per Keith Riger, the emergency generator is not required.
- Item 8: The dimension for the liftstation has been included.
- Items 9
& 10 : Additional liftstation details have been provided.
- Item 11: Design computations utilized a 35% impervious area for each lot in addition to impervious areas for roadways.

Item 12: Typical roadway sections have been revised to show soil cement base.

Item 13: The contractor will provide a detector wire during pipe installation.

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Item 15: Fire hydrants were addressed in the previous submittals.

Item 16: All references to residential uses has been deleted.

Items 17
through

19 : These items are being handled by Mr. Watson and Mr. Schindler, directly.

Item 20: Parking revisions have been made as requested.

Item 21: The developer does not object.

Item 22: Parking spaces for the handicapped will be addressed during review of a specific lot site plan.

Item 23: This matter has been coordinated with Keith Riger.

Item 24: The forcemain has been upsized.

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& 26 : These matters will be addressed by Mr. Watson, directly.

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& 30 : These matters will be addressed at the time of lot development.

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RECEIVED
OCT 01 1991

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letter from Biological Consulting Services.

Items 41
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46 : These matters will be handled by Mr. Watson.

Item 47: Application to the appropriate agencies will be
made upon approval of this site plan by the City.

Item 48: This matter will be addressed in Phase II.

Item 49: Phasing is addressed in the Development Report.

We are confident the above submittal is adequate for your
agency's approval. However, if you have any questions, please
feel free to contact me at 738-0462.

Sincerely,
MTM & ASSOCIATES, INC.



Michael T. McMahan, P.E.
President

MTM;vp

Encl.

cc: Mr. Harold Watson, Developer

III. Statement by Utility

The undersigned states that City of DeLand treatment plant has sufficient capacity to provide wastewater/drinking water treatment to serve this system when completed, that the treatment plant will operate in compliance with Florida Administrative Code Rule 17-6/17-22, and any other applicable regulations, and that the facility is not under a moratorium of any kind.

Existing plant capacity (MGD) 4.35 MGD

Existing plant flow/demand (MGD) (from operation reports) 2.5 MGD

Existing number of Equivalent Residential Connections served 7.5

Existing number of Equivalent Residential Connections presently approved 12,428

Signature

Mr. Robert Handley, Director of Utilities
Name and Title (Please Type)

P. O. Drawer 449, DeLand, FL 32721
Address (Please Type)

(904) 736-3900
Date Telephone Number

IV. Statement by Engineer

This is to certify that the engineering features of this system have been designed by me in accordance with Florida Administrative Code Rule 17-6/17-22 and any applicable local requirements. It is also stated that the undersigned has furnished the applicant with written instructions for the operation and maintenance of the system. A statement certifying completion of the system and appropriate clearances will be submitted to the Department in order to obtain approval to place the system in service.

Signature

(Affix Seal)

Michael T. McMahan, P.E. 32181
Name (Please Type) Florida Registration Number

MTM & ASSOCIATES, INC.
Company Name (Please Type)

125 E. Indiana Avenue, Suite D, DeLand, FL 32724
Company Address (Please Type)

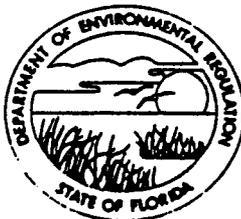
(904) 738-0462
Date Telephone Number

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

of f-111-

ST. JOHNS RIVER
DISTRICT

3319 MAGUIRE BOULEVARD
SUITE 232
ORLANDO, FLORIDA 32803



RECEIVED
OCT 01 1991

BOB GRAHAM
GOVERNOR

VICTORIA J. TSCHINKEL
SECRETARY

ALEX ALEXANDER
DISTRICT MANAGER

NOTICE OF INTENT TO USE GENERAL PERMIT FOR
~~WASTEWATER COLLECTION SYSTEM~~/DRINKING WATER DISTRIBUTION SYSTEM

Instructions: This form is to be completed and submitted to the Department along with one set of engineering plans and specifications, AT LEAST 30 DAYS PRIOR TO INITIATING CONSTRUCTION. All blanks must be filled.

I. General Description

1. Person(s) or entity that will own the CS/DS

Name and Title Watson Development Company, Inc.

Address 1171 Glenwood Trail, DeLand, FL 32720

Phone (904) 736-0536 Latitude 29° 03' 43"N Longitude 81° 16' 02"W

2. Estimated cost of project \$30,000.00

3. CS/DS Description This system will be known as: Marsh Point Business Park

This system will serve 0 family homes, 30 commercial facilities and 0 multifamily units. Other: None

Estimated Increase in ~~Flow~~ Demand (MGD) 0.58 MGD. Estimated increase in Equivalent Residential Connections (ERC's) (An ERC = 3.5 persons) 171.4

The ~~Wastewater Collection System~~ drinking water plant serving this system will be City of DeLand, Volusia County Florida

II. Statement by Applicant

The undersigned owner or authorized representative* of Watson Development Company, Inc. is fully aware that the statements made in this notice are true and complete to the best of his knowledge. The undersigned is fully aware that it is his responsibility to operate and maintain this facility in such a manner as to function as it was designed. Responsibility may be transferred to another entity upon written notice to the Department from the entity assuming responsibility. The undersigned also accepts responsibility for retaining the project engineer as indicated on this notice to observe that construction of the project is in accordance with engineering plans as submitted.

*Attach a letter of authorization

Harold Watson
Signature of the Owner or Authorized Representative

Harold Watson
Name and Title (Please Type)

1711 Glenwood Trail, DeLand, FL 32720
Address

Telephone No. (904) 736-0536 Date _____

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The undersigned states that City of DeLand treatment plant has sufficient capacity to provide wastewater/drinking water treatment to serve this system when completed, that the treatment plant will operate in compliance with Florida Administrative Code Rule 17-6/17-22, and any other applicable regulations, and that the facility is not under a moratorium of any kind.

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Name and Title (Please Type)

P. O. Drawer 449, DeLand, FL 32721
Address (Please Type)

(904) 736-3900
Date Telephone Number

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Michael T. McMahan, P.E. 32181
Name (Please Type) Florida Registration Number

MTM & ASSOCIATES, INC.
Company Name (Please Type)

125 E. Indiana Avenue, Suite D, DeLand, FL 32724
Company Address (Please Type)

(904) 738-0462
Date Telephone Number

MICHAEL T. McMAHAN, P.E.
CONSULTING ENGINEER

125 E. Indiana Avenue
DeLand, Florida 32724
904-738-0462

October 1, 1991

RECEIVED
OCT 01 1991

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Planning Department
Post Office Drawer 449
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Sincerely,
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Michael T. McMahan, P.E.
President

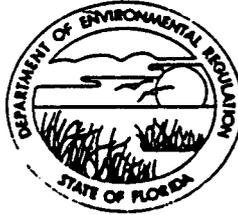
MTM;vp

Encl.

cc: Mr. Harold Watson, Developer

DEPARTMENT OF ENVIRONMENTAL REGULATION

ST. JOHNS RIVER DISTRICT
3319 MAGUIRE BOULEVARD
SUITE 232
ORLANDO, FLORIDA 32803



RECEIVED
OCT 01 1991

BOB GRAHAM GOVERNOR
VICTORIA J. TSCHINKEL SECRETARY
ALEX ALEXANDER DISTRICT MANAGER

NOTICE OF INTENT TO USE GENERAL PERMIT FOR WASTEWATER COLLECTION SYSTEM

Instructions: This form is to be completed and submitted to the Department along with one set of engineering plans and specifications, AT LEAST 30 DAYS PRIOR TO INITIATING CONSTRUCTION. All blanks must be filled.

I. General Description

1. Person(s) or entity that will own the CS/DS

Name and Title Watson Development Company, Inc.

Address 1171 Glenwood Trail, DeLand, FL 32720

Phone (904) 736-0536 Latitude 29° 03' 43" N Longitude 81° 16' 02" W

2. Estimated cost of project \$75,000.00

3. CS/DS Description This system will be known as: Marsh Point Business Park

This system will serve 0 family homes, 30 commercial facilities and 0 multifamily units. Other: None

Estimated Increase in Flow/DESIGN (MGD) 0.012 MGD. Estimated increase in Equivalent Residential Connections (ERC's) (An ERC = 3.5 persons) 171.4

The wastewater treatment plant/DESIGN plant serving this system will be City of DeLand, Volusia County Florida

II. Statement by Applicant

The undersigned owner or authorized representative* of Watson Development Company, Inc. is fully aware that the statements made in this notice are true and complete to the best of his knowledge. The undersigned is fully aware that it is his responsibility to operate and maintain this facility in such a manner as to function as it was designed. Responsibility may be transferred to another entity upon written notice to the Department from the entity assuming responsibility. The undersigned also accepts responsibility for retaining the project engineer as indicated on this notice to observe that construction of the project is in accordance with engineering plans as submitted.

*Attach a letter of authorization

Signature of the Owner or Authorized Representative (Handwritten Signature)

Name and Title (Please Type) Harold Watson

Address 1711 Glenwood Trail, DeLand, FL 32720

Telephone No. (904) 736-0356 Date

III. Statement by Utility

The undersigned states that City of DeLand treatment plant has sufficient capacity to provide wastewater/drinking water treatment to serve this system when completed, that the treatment plant will operate in compliance with Florida Administrative Code Rule 17-6/17-22, and any other applicable regulations, and that the facility is not under a moratorium of any kind.

Existing plant capacity (MGD) 4.35 MGD

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Existing number of Equivalent Residential Connections presently approved 12,428

Signature _____

Mr. Robert Handley, Director of Utilities
Name and Title (Please Type)

P. O. Drawer 449, DeLand, FL 32721
Address (Please Type)

Date Telephone Number (904) 736-3900

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Signature _____

(Affix Seal)

Michael T. McMahan, P.E. 32181
Name (Please Type) Florida Registration Number

MTM & ASSOCIATES, INC.
Company Name (Please Type)

125 E. Indiana Avenue, Suite D, DeLand, FL 32724
Company Address (Please Type)

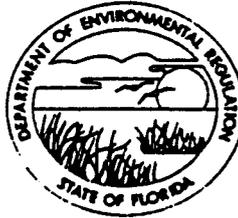
Date Telephone Number (904) 738-0462

of
of F-102

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

ST. JOHNS RIVER
DISTRICT

3319 MAGUIRE BOULEVARD
SUITE 232
ORLANDO, FLORIDA 32803



RECEIVED
OCT 01 1991

BOB GRAHAM
GOVERNOR

VICTORIA J. TSCHINKEL
SECRETARY

ALEX ALEXANDER
DISTRICT MANAGER

NOTICE OF INTENT TO USE GENERAL PERMIT FOR
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Harold Watson

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Company Name (Please Type)
125 E. Indiana Avenue, Suite D, DeLand, FL 32724
Company Address (Please Type)
(904) 738-0462
Date Telephone Number



RECEIVED
OCT 01 1991

BIOLOGICAL CONSULTING SERVICES, INC.

September 6, 1991

Harold Watson
1171 Glenwood Trail
Deland, FL 32720

Ref: Marsh Point Business Park - wetlands

Dear Mr. Watson:

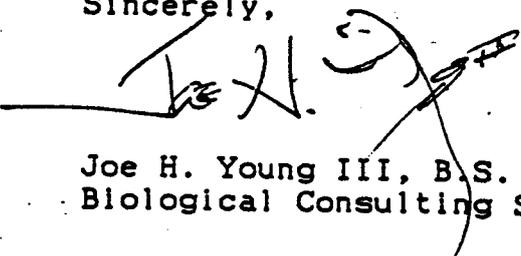
A site review was performed in August of 1989 with Lorne Malo of the St. Johns River Water Management District (S.J.R.W.M.D.). The wetlands lines were confirmed at that time to be Florida Department of Environmental Regulation (F.D.E.R) / S.J.R.W.M.D. jurisdictional. The lines were then surveyed by Steinman & Associates (per drawing #89040).

The S.J.R.W.M.D. review doesn't provide a written notification of their approval of the wetlands limits, and so we do not have anything other than the jurisdictional request to document that review.

This wetland line accurately depicts the F.D.E.R jurisdictional wetlands line for your project.

I hope that this information is helpful towards the completion of your project.

Sincerely,

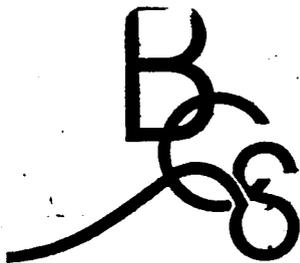


Joe H. Young III, B.S.
Biological Consulting Services, Inc.

JHY/sm

c: Mike McMahan
file

RECEIVED SEP - 9 1991



RECEIVED
OCT 01 1991

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September 6, 1991

Harold Watson
1171 Glenwood Trail
Deland, FL 32720

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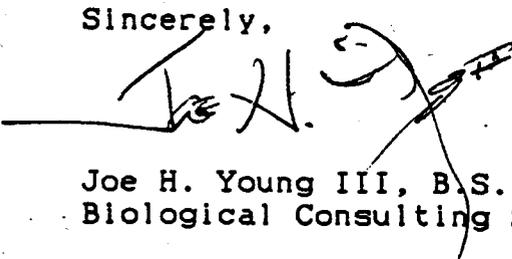
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Sincerely,


Joe H. Young III, B.S.
Biological Consulting Services, Inc.

JHY/sm

c: Mike McMahan
file

RECEIVED SEP - 9 1991

GRAPHICS REQUEST

PLANNING DEPARTMENT

Date Submitted: Aug 27, 1991

APPLICATION OR PETITION #. 2 91-02-01

GRAPHICS NEEDED BY: ASAP.

REQUESTED BY: Luise Mann

NOTIFICATION BASE MAP

- 1. ZONING (300' - 500'): ()
- 2. VARIANCE: ()

GRAPHICS REQUIRED:

- 1. AERIAL: ()
- 2. BASE MAP: (X)
- 3. EXISTING LAND USE: ()
- 4. ZONING: (X)
- 5. SITE SKETCH: ()
- 6. CITY FUTURE LAND USE: ()
- 7. COUNTY LAND USE: ()
- 8. OTHERS: ()

Blue Transparency
verify legal description

LEGAL DESCRIPTION: SEC. _____ TOWNSHIP _____ RANGE _____

GRAPHICS

PD file

RECEIVED
AUG 23 1991

MEMORANDUM

TO: Mr. Gary Schindler, AICP
Planning Director
City of DeLand

FROM: Mr. Harold Watson, President *HW*
H.L. Watson Development company, Inc.

SUBJECT: Marsh Point Business Park
Allowable uses

DATE: August 22, 1991

Gary, the following list is the proposed uses that will be allowable at Marsh Point, and will be in the deed restrictions and the PD report.

1. Automotive and marine repair (including body shops).
2. Agricultural or farm implement manufacturing.
3. Aircraft and aircraft part manufacturing.
4. Aluminum extrusion, rolling manufacturers.
5. Bakery products manufacturing.
6. Basket and hamper manufacturing.
7. Bedding manufacturers.
8. Beverage manufacturing.
9. Blacksmith shops.
10. Boat Manufacturers.
11. Boat and marine repair.
12. Bolt, nut, screw, and rivet manufacturers.
13. Box and crate manufacturers.
14. Building components manufacturers.

39. Feed and seed processing and storage.
40. Fertilizer storage.
41. Firearms manufacturers.
42. Food products manufacturers.
- 43.. Fruit and vegetable handlers or processors.
44. Fur finishing.
45. Furniture manufacturers.
46. Freezer locker rentals.
47. Governmental uses.
48. Greenhouses, nurseries, and landscaping sales.
49. Gas or steam fitting shops.
50. General , professional, medical, and dental offices, clinics.
51. Grain blending and packaging, but not milling.
52. Heating, air conditioning, ventilation, stove, refrigerator manufacturers.
53. Helipads.
54. Hosiery mills.
55. Ice manufacturers.
56. Industrial vocational training school.
57. Insecticides, fungicides, disinfectants, and related industrial and household chemical compounds (blending only).
58. Iron ornamental manufacturers.
59. Knitting, weaving, printing finishing of textiles and fibers into fabric goods.
60. Laboratories, research, testing, and development.

61. Laundry and dry cleaning establishments.
62. Leather goods manufacturers not including tanning operations.
63. Machine shop, sheet metal working shop.
64. Manufacture of pottery or other ceramic products.
65. Marine sales and service.
66. Microwave, radio, telephone, and television towers not to exceed 35 feet in height.
67. Motor vehicle rental, leasing, sales and service. (Including passenger vehicles, light trucks, trucks, recreational vehicles, and commercial vehicles.)
68. Moving and storage companies.
69. Nail, tack, spike, and staple manufacturers.
70. Packing and crating service.
71. Personal storage facilities, mini-warehouses, or personal and commercial facilities.
72. Printing, book binding, lithography, and publishing establishments.
73. Private clubs and lodges.
74. Public utilities.
75. Parachute, sail, and related item manufacturing.
76. Perfumes, and perfumed soaps, (compounding only).
77. Pest exterminators.
78. Pharmaceutical products, drugs, (compounding only).
79. Planing and mill work manufacturers.
80. Plastic products manufacturers.
81. Plating, electrolytic process.
82. Plumbing supply.

83. Printing and engravers, including photostating and publishing.
84. Radiator repair, cleaning and flushing establishments.
85. Railroad yards, sidings and terminals.
86. Recycling centers.
87. Rental of trailers and trucks.
88. Retail sales as an accessory use.
89. Rug cleaning establishments.
90. Safe and vault manufacturers.
91. Sheet metal products manufacturers.
92. Sign, paint and service shop.
93. Reserved showroom commercial sales.
94. Silverware and plateware manufacturers.
95. Swimming pool sales and service.
96. Tractor sales and service.
97. Towing and wrecker service.
98. Trade shops, including tinsmith, cabinet maker, rug and carpet cleaning, mattress, renovation, electrical, roofing and plumbing shop.
99. Truck and rail freight terminals.
100. Tire retreading, recapping, and vulcanizing.
101. Tool, die, and gauge shops.
102. Trailer, carriage, and wagon manufacturers.
103. Used material, sales (not to include junk yards).
104. Vehicle storage, including trucks and heavy equipment.
105. Warehouses and commercial storage activities.
106. Welding or soldering shops.

107. Wholesale houses and distributors.
108. Wood products manufacturers (excluding sawmills).
109. Wholesale nurseries, greenhouses, and landscaping services.
110. Yards of general contractors engaged in building or heavy construction.
111. Yarn, threads, and cordage manufacturers.
112. Other uses approved by the City Commission after review and recommendation by the Planning Board which are unquestionably similar to those uses permitted herein.
113. Day care as an accessory use only.

NOTE: Any outside storage of vehicles (more than 48 hours), materials, equipment, material, and supplies must be screened from public view.

CITY OF DELAND

DELAND, FLORIDA 32721



July 17, 1991

POST OFFICE DRAWER 449
TELEPHONE: (904) 736-3900
FAX: (904) 736-9819

Mr. Michael T. McMahan, P.E.
125 East Indiana Avenue, Suite A
DeLand, Florida 32724

RE: PSB-91-02; Marsh Point Business Park

Dear Mr. McMahan:

I apologize for not getting this letter to you sooner, but the draft copy was overlooked and caused a delay in the process. However, the Technical Review Committee reviewed the above referenced Preliminary Plat on Thursday, June 27, 1991 and had the following comments:

Site Plan Revisions

Please revise the site plan to show the following:

1. Internal sidewalks will not be required by the City, however, pedestrian circulation must be addressed along both US 92 and Marsh Road.
2. The tree survey should clearly depict all specimen trees at or above 6" DBH which exist on-site and any other trees greater than 6" DBH which would be used to meet tree protection requirements. Staff questions the accuracy of the tree survey because existing internal trees which were noted during field inspections are not shown on the Phase I tree survey. Also, please address the following tree protection questions either on the plans or in writing:
 - a. Which trees will be removed?
 - b. How will the tree deficiency be met?
 - c. Which specific areas will be used for tree preservation in Phase I?
 - d. To meet the tree deficiency and preserve an adequate area the developer could do any of the following:
 - * use rear yards for tree protection areas;

- * plant two (2) trees in each front yard setback;
 - * or seek a variance from the City Commission.
3. Extend the 12 inch water main north on Marsh Road to Old Daytona Road and connect to the proposed 6 inch pipe;
 4. Delete the force main, labeled "FM-4", extending from the lift station south on Marsh Road and west on U.S. 92, as it will not be required;
 5. Prior to construction, the developer must enter into a utility service agreement with the City of DeLand concerning payments (if any) for up-sizing utilities, dedication of utilities to the City and provision of off-site utilities.
 6. The property to the east of Marsh Road may soon develop. The City has no objection to a cooperative arrangements for up-sizing lift stations made between developers to serve more than one property, and in fact, would encourage this as it would reduce the number of lift stations ultimately owned by the city.
 7. Provide an emergency generator for the lift station;
 8. Indicate east/west dimension for the lift station site.
 9. Provide additional details on the lift station including manufacturer, make, and model.
 10. See the City standard lift station details (attached). Please contact Keith Riger, City Engineer, for further details. (736-3900, ext 744);
 11. Provided that water management district permits are issued, we have no objection to the stormwater design. It does not appear, however, that stormwater master planning has been done for the individual lots which are to be developed in the future. As currently designed, each lot developer will be responsible for construction of on-site stormwater retention. The "building pad" outlined in dashed lines on each lot may be unrealistic in light of requirements for on-site stormwater management.
 12. There appears to be a conflict between the road section shown on sheet 6 and the section on shown on sheet 2. On sheet 2 a soil cement base is indicated, where on sheet 6 a lime rock base is indicated. Please resolve this dis-

crepancy. If soil cement is used, please specify sub-base composition and compaction requirements.

13. Provide detector wire in addition to warning tape for all water mains and force mains.
14. Although the site requires an eight inch (8") water main throughout the subdivision for proper circulation and fire protection, please show a twelve inch (12") water main and the City of DeLand will reimburse the developer for the cost difference. The City will prepare a utility/sewer agreement with provisions for the up-sizing payment.

Fire Department Comments

15. All buildings with sprinklers will require a fire hydrant within 150 ft. of the fire department connection.

Land Use Revisions

Please revise both the development plans and report to correctly state the land uses permitted in the business park. These land uses were discussed in Staff's letter dated 3/12/91 and in subsequent meetings with Mr. Watson.

16. Specifically prohibit all residential land uses whether primary or accessory to permitted uses for the entire development.
17. The land uses for the entire development shall be expressly limited to light industrial, wholesale, warehousing, heavy commercial, and contractor trade operations;
18. Land uses involving general retail or general service such as those listed in C-1 and C-2 zoning districts are prohibited as primary uses (see attachments: 33-11 and 33-12). Retail and service land uses are permitted only as an accessory to a primary permitted use.
19. On lot numbers 26, 27, and 30, the following uses shall be expressly prohibited:
 - a. cement manufacturing;
 - b. fertilizer manufacturing;

- c. storage of coal, coke, wood, or fuel;
- d. saw mills;
- e. uses with a restaurant cafe as an accessory use.

Parking Revisions

20. The parking requirements must be revised to eliminate all references to prohibited uses, such as: "dwelling", "general business" and the like. Parking requirements will be as follows:
- a) Contractor Offices: one parking space for each 200 square feet of office space and storage areas are subject to the parking requirements for warehouse space.
 - b) Warehouses: one space per 1,000 square feet of gross floor area for the first 20,000 square feet plus parking required for space devoted to other uses. One space per 2,000 square feet for the second 20,000 square feet and one space per 4,000 square feet of gross floor area in excess of 40,000 square feet.
 - c) Manufacturing: 1 parking space per 750 square feet of gross floor area devoted to manufacturing plus the required parking for square footage devoted to other uses.
21. Parking specifications shall be approved by the City Engineer.
22. Please address parking spaces for the handicapped.

Engineering Comments:

23. Along the closed portion of Old Daytona Road, the developer is required to connect to a six inch (6") water main located approximately 1200' west of the northwest property boundary and run the water main east from the south end of Phase I to Marsh Road, then south and connect on the north side of U.S. 92 to the City's new water main. A new City jack and bore with water main will be extended in the summer of 1991 (contact Keith Riger, City Engineer, for details).
24. Although not shown on the plans, it appears that a force main extending along the north edge of U.S. 92 is planned, please state clearly in the notes and on the plans whether the devel-

oper intends to hook up to the City's pump station at Langley Avenue. The City would like to up-size this force main to six and a quarter inches (6 1/4") and reimburse the developer for the cost difference. The City will draft a utility service agreement with provisions for the up-sizing payment. Please provide lift station pump specifications and further design details (see attachment).

25. Please dedicate all internal streets to the City of DeLand. The streets must be 24' wide and curb details are needed. Also, provide street names acceptable to Volusia County.
26. Address pedestrian transportation. Please provide a four foot (4') wide sidewalk along the west right of way for Marsh Road and a five foot (5') wide sidewalk in the landscape buffer at the property line along U.S. 92. Please provide access and maintenance agreements for both.

Landscaping Tree Preservation and Wetlands

27. Please develop further plans for tree protection which depict the eight (8) acres (or 356,546 square feet) identified on the tree protection work sheet (copy included). Also, indicate on a tree survey which specific trees and specimens will remain and which will be removed. Are pine trees included on the tree work sheet as existing trees utilized to meet protection requirements?
28. Please show clearly on the plans which lots are reserved for wetlands conservation and which will be developed. Include the proposed wetlands conservation area as well as the existing wetlands acreage.
29. Please provide an expanded narrative to describe the external landscape buffer, the entrance way, and buffering between internal land uses. Discuss the minimum landscape buffer requirements between internal land uses; the width of front, side, and rear buffers; numbers of trees and shrubs; and landscaping around vehicular use areas (in industrial use districts vehicular use landscaping may be reduced by one half).
30. Provide a letter stating that property owners will be subject to all applicable landscaping regulations, sign ordinances, and tree protection requirements (Chapters 33, 29, and 25 respectively).

Fire Department Comments:

31. All hydrant locations shall be marked using an approved reflector, blue in color, placed in the center of the driving lane closest to the hydrant.
32. As depicted on the plans, hydrant spacing is unacceptable. Please revise the plans to show a maximum of three hundred feet (300') between hydrants (N.F.P.A. 1141).
33. Flow shall be a minimum of 1,000 GPM with a residual pressure of 20 PSI. Please provide evidence that these standards can be achieved or address the improvements necessary to achieve them.

Environmental Issues and Wetlands Comments

34. Please provide documentation of the agency with jurisdiction over these wetlands;
35. Please provide County, SJRWMD, DER, USACOE wetlands mitigation permits, as required for this project. Until the limits of the jurisdictional wetlands are documented by these agencies, development approval cannot be obtained.

Your consultant as well as the City's consultant over the wetlands have both suggested the possibility of USACOE jurisdiction. Please provide a letter of determination.

36. Provide a DNR wetlands mitigation permit, as required;
37. The City will withhold any comments concerning the acceptability of using wetlands for stormwater retention for Phase II, but would like to have this issue addressed in the St. John's River Water Management District Permit. This issue will be addressed in a separate letter containing the environmental review comments.
38. The development report and the preliminary plat both identify portions of lot #7 which are contained in the boundary of the wetlands. Development on this lot may be delayed until the boundaries of the wetlands can be determined. On the final plat, the wetlands area shall be identified and measures acceptable to the City will be taken to preserve wetlands areas in their natural state. Covenants and deed restrictions shall also preserve this wetland area. Please document any applications which have been made regarding wetlands.

39. The City asks that you prepare a wetlands mitigation plan which will be reviewed and approved prior to the development of Phase II by the City, DER, SJRWMD, and the Army Corps of Engineers.
40. Staff has seen the note regarding flood plain areas, but would like documentation that the subject property does not contain any 100 year flood plain areas.

General Comments and Revisions

41. Preliminary plat approval is good for only one year.
42. Prior to the recording of the plat, the developer will prepare covenants and deed restrictions acceptable to the City of DeLand on the following topics utilizing the guidelines presented in this letter:
 - traffic
 - setbacks
 - parking
 - landscaping
 - tree protection
 - sign ordinances
 - common space maintenance
 - wetland conservation
 - endangered species and habitat protection
 - and other covenants or deed restrictions as stated in this letter.
43. Prior to the recording of the final plat, all infrastructure improvements must be in place or bonded at 110% of the actual cost of improvements.
44. Prior to the City's acceptance of the infrastructure plan, please provide a maintenance bond of 10% of the actual cost of infrastructure.
45. Prior to the recording of the plat, the developer will pay the infrastructure inspection fee which will be equal to 1.5% of the actual cost of infrastructure or \$500 whichever is greater.
46. In the development report, provide a statement that the City will not be responsible for the maintenance of common space areas including stormwater retention areas. If the lots are to be sold separately, please provide an agreement for the maintenance of all common areas: the perimeter landscape

Mr. Michael McMahan
Re: PSB-91-02; Marsh Point
July 17, 1991 - Page 8

buffer; tree protection area(s); wetlands conservation area; roadways; cul-de-sacs; and any other open spaces.

47. According to the agencies of jurisdiction, no applications have yet been made for the necessary permits. Please provide a copy of the applications for the following permits:
- a) Water Distribution System Permit from DER;
 - b) Wastewater Transmission and Collection Permit;
 - c) Dredge and Fill Permit for Waterline and Force Main crossing of Little Hawk Creek from DER and the U.S. Army Corps of Engineers;
 - d) Surface water permit from St. John's River Water Management District; and
 - e) Stormwater and runoff permit from St. John's River Water Management District.
48. In the narrative, the covenants, and the deed restrictions, please add a statement to the effect that land uses which produce hazardous waste will not be permitted to locate on any lot adjacent to the wetland area.
49. Please address phasing: identify all necessary infrastructure improvements by the phase of construction.

If you have any questions, please feel free to contact me at the planning department, 736-3900, extension 247.

Sincerely,



Gary M. Schindler, AICP
Planning Director

GMS:ngb

Attachments

cc: Keith Riger
Peter Burbine
Abra Dow

SUBDIV\PSB91-02.DOC



**WATER
MANAGEMENT
DISTRICT**

Henry Dean, Executive Director
John R. Wehle, Assistant Executive Director

POST OFFICE BOX 1429 PALATKA, FLORIDA 32178-1429
TELEPHONE 904/329-4500 SUNCOM 904/860-4500
FAX (EXECUTIVE/LEGAL) 329-4125 (PERMITTING) 329-4315 (ADMINISTRATION/FINANCE) 329-4508

FIELD STATIONS

| | | | |
|---|---|---|--|
| 618 E. South Street Orlando, Florida 32801 407/894-5423 | 7775 Baymeadows Way Suite 102 Jacksonville, Florida 32256 904/730-6270 | PERMITTING: 305 East Drive Melbourne, Florida 32904 407/984-4940 | OPERATIONS: 2133 N. Wickham Road Melbourne, Florida 32935-8109 407/254-1782 |
|---|---|---|--|

July 17, 1991

Certified Number P 831 792 860

Michael T. McMahan, P.E.
125 East Indiana Avenue
DeLand FL 32724

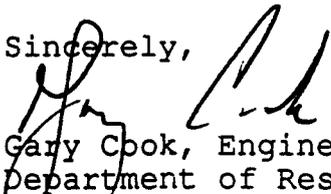
Re: Permitting Requirements For The Proposed Marsh Point Business Park,
Volusia County

Dear Mr. McManan:

Thank you for your letter of July 2, 1991, requesting a permit determination for the proposed Marsh Point Business Park. David Dewey and I have reviewed your proposal, along with the plans submitted with your letter. The project is designed to be built in two phases, Phase Two of which contains approximately 7 acres of wetlands, as represented on the plans. Based on the total project, a Management and Storage of Surface Waters (MSSW) permit shall be required, pursuant to Paragraph 40C-4.041(b)(8), Florida Administrative Code (F.A.C.). If you decide to apply for a permit for only Phase One, you may submit a General MSSW permit application. This is based on the position that all of Phase One will be consistent with the requirements of Section 40C-40.302, F.A.C. When you elect to develop Phase Two, the General MSSW will be upgraded to an Individual MSSW. As you may know, the design criteria is the same for both General and Individual MSSW permits. (Therefore, it will be consistent with your design for Phase One.)

Please be advised that this determination applies only to the project as represented in the aforementioned letter. During the review process, staff will visit the site and verify the extent and coverage of wetlands on the site, in addition to making a determination of any Wetland Resource Management permitting requirements. If further changes are contemplated for this project, then please contact staff for additional permit determinations.

As a reminder, no construction (includes land clearing) shall begin on the proposed project until a permit is issued by the St. Johns River Water Management District

Sincerely,

Gary Cook, Engineer
Department of Resource Management

RECEIVED JUL 18 1991

GC:db
cc: Pat Frost, David Dewey, Doug Dycus, Naomi Edelson
Sandra Carreira-Records

| | | | |
|--------------------------------------|--|--|-------------------------------------|
| Saundra H. Gray, CHAIRMAN DE BARY | Joe E. Hill, VICE CHAIRMAN LEESBURG | Joseph D. Collins, TREASURER JACKSONVILLE | Merritt C. Fore, SECRETARY OCALA |
| Jesse J. Parrish, III TITUSVILLE | Ralph E. Simmons FERNANDINA BEACH | Patricia T. Harden SANFORD | Lenore N. McCullagh ORANGE PARK |
| | | | James H. Williams OCALA |

MICHAEL T. McMAHAN, P.E.
CONSULTING ENGINEER

125 E. Indiana Avenue
DeLand, Florida 32724
904-738-0462

July 2, 1991

RECEIVED
SEP 27 1991

Mr. Gary Cook
St. Johns River Water Management District
618 East South Street
Orlando, Florida 32801

RE: Marsh Point Business Park
DeLand, Florida
Project #89-324

Dear Gary:

In accordance with our telephone conversation of July 1, 1991, I am enclosing a copy of the subject project drawings showing Phase I construction and a area designated for future construction.

As you are aware, several conversations regarding the phasing of this project have been conducted between, not only, the developer and myself, but also, between Dave Dewey and yourself. It is my understanding the developer, Mr. Harold Watson, wishes each phase of his project be reviewed as a separate project.

As you may note on the enclosed drawings, all development within the area designated for future development has been shown as dashed lines.

It is our intention to submit separate applications for Phase I construction and any future construction. Since wetlands will not be impacted in the Phase I development, it is our intention to submit either a Stormwater Discharge Permit (40C-42) or even a general 40C-4 Permit, as appropriate. We suspect any future development will require a general permit or possibly an individual permit for management and storage of surface waters. However, Mr. Watson does not wish to incur the additional engineering expense for developing the future phase at this time!

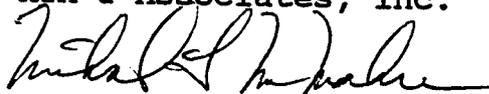
Mr. Watson does not wish to perform any development that would adversely affect the wetlands. As you can appreciate, mitigation of wetlands is an expensive endeavor that developers

wish to avoid. Mr. Watson does wish to utilize his property to the fullest extent, with minimal capital expenditure. Cost associated with mitigation of wetlands in future phases may warrant his abandonment of future development.

We ask that you review each application on its own merits and that future development be reviewed under future applications. Also, we respectfully request you respond to our request in writing.

Your consideration in these matters would be greatly appreciated. I am available to discuss these matters in further detail and look forward to your early response.

Sincerely,
MTM & Associates, Inc.



Michael T. McMahan, P.E.
President

MTM;vp

Enclosure

cc: Mr. Harold Watson
Mr. Gary Schindler

RECEIVED
JUN 27 1991

M E M O R A N D U M

June 27, 1991

TO: Gary Schindler, Planning Director
FROM: Keith D. Riger, Public Services Director
SUBJECT: Site Plan Review - Marsh Point Business Park

I have reviewed the subject subdivision and offer the following review comments:

1. All water mains within the proposed subdivision shall a be minimum 8 inch diameter.
2. Extend 12 inch water main north on Marsh Road to Old Daytona Road and connect to proposed 6 inch pipe.
3. The force main labeled FM-4, extending from the lift station south on Marsh Road and west on U.S. 92, will apparently not be required. Suggest it be deleted from this plan.
4. The developer should be informed that property owners east of Marsh Road may wish to connect to the manhole located at Marsh Road and the proposed entrance to the Marsh Point Business Park. The city has no objection to cooperative arrangements for upsizing lift stations made between developers to serve more than one property, and in fact, would encourage this if it leads to the reduction of the number of lift stations ultimately owned and operated by the city.
5. Prior to construction, the developer must enter into a utility service agreement with the City of DeLand concerning payments (if any) for upsizing utilities, dedication of utilities to the city and provision of off-site utilities.
6. Indicate emergency generator connection for lift station.
7. Indicate east/west dimension for lift station site.

8. Provide additional details on lift station including manufacturer, make and model.
9. Include city standard lift station details (contact Engineering/Utilities Departments for information).
10. We have reviewed the stormwater design for the proposed streets in this subdivision and provided that water management district permits are issued, we have no objection to this concept. It does not appear, however, that stormwater master planning has been done for the individual lots which are to be developed in the future. As currently designed, each lot developer will be responsible for construction of on-site stormwater retention. The "building pad" outlined in dashed lines on each lot may be unrealistic in light of requirements for on-site stormwater management.
11. County wetlands mitigation permit may be required for this project.
12. A DNR wetlands mitigation permit may be required for this project.
13. There appears to be a conflict between the road section shown on sheet 6 and the section on shown on sheet 2. On sheet 2 a soil cement base is indicated, where on sheet 6 a lime rock base is indicated. Please resolve this discrepancy. If soil cement is used, please specify sub-base composition and compaction requirements.
14. Provide detector wire in addition to warning tape for all water mains and force mains.

KDR/gb/M/MARSHPT

RECEIVED
JUN 27 1991



CITY OF DELAND FIRE DEPARTMENT

201 WEST HOWRY STREET • DELAND, FLORIDA 32720 • PHONE 734-3499
734-3495

SITE PLAN REVIEW CHECK LIST

Project Name: MARSH POINT BUSINESS PARK

Fire Protection Requirements

- A. Hydrant spacing acceptable SEE COMMENT
- B. Adequate flow provided SEE COMMENT
- C. Adequate access for fire fighting equipment provided
OK

D. Other:

✓ A) ANY SPRINKLERED BUILDINGS WILL REQUIRE A
FIRE HYDRANT WITHIN 150 FT OF THE F.D CONNECTION.

B) WATER MAIN FROM MARSH RD ENTRANCE
SHALL BE 8 INCH

Wm R Wilburn

Reviewer

6-25-91

Date

SITE PLAN AND SUBDIVISION
ACTION REQUEST FORM

From: Planning Director

Date: June 20, 1991

To: Public Service Engineer
Chief Building Official
Assistant Utility Director
Utility Engineer
Fire Marshal
Parks Superintendent
Technical Review Secretary
Planner..... ✓
Other.....

Site Plan - Subdivision

Marsh Point Planned Development for the entire property and PSB-91-02 for Phase I of the development. I am transmitting to you a copy of the revised PD report and the preliminary plat for Phase I.

The site plan or subdivision will be reviewed on Thursday, June 27, 1991, at 2:00 PM. Please have your written comments for me at that time.

STAFF/SSARF

MICHAEL T. McMAHAN, P.E.
CONSULTING ENGINEER

125 E. Indiana Avenue
DeLand, Florida 32724
904-738-0462

June 19, 1991

Mr. Gary Schindler, AICP
Planning Director
City of DeLand
Post Office Drawer 449
DeLand, Florida 32721

RECEIVED
JUN 20 1991

RE: Marsh Point Business Park Planned Development
Project #89324

Dear Mr. Schindler:

I am submitting, herein, eight (8) copies of revised plans and development report addressing those items mentioned in your letters of March 12, 1991 and March 25, 1991.

For your convenience, I have commented below on some of the City's staff statements regarding this development:

1. Land Uses: Land uses for this development are stated on the plans. Conversations with the adjacent property owners by Mr. Watson have confirmed that they have no objection to the listed uses.
2. Revisions to uses on Lots 26, 27 and 30 have been revised as requested.
3. Parking requirements have been amended as requested.
4. Setbacks have been amended as requested.
5. The Southern Bell easement is a portion of Lot #15. The site plan for this establishment has already been reviewed and approved by staff. The easement area has been designated on the drawings as Southern Bell use.
6. Fencing has been amended as requested.
7. No guard shack is planned for the entrance.

8. Phase II will be developed in the future at the discretion of H.L. Watson Development Company.
9. Covenants and Deed Restrictions are being addressed by the developer's attorney.
10. Impact and Inspection fees will be addressed directly by the developer.
11. Permits for Water, Wastewater and Stormwater will be provided to the City prior to construction.
12. No Hazardous Waste Generating Uses are proposed for this development.
13. The preliminary lots shown on the drawings in Phase II will be addressed during the Phase II submittal. The parcel shown on the southwest portion of the property is not part of Marsh Point Business Park and is owned by another entity.
 - a. Marsh Point Business Park, Phase II, does not front on U.S. Highway 92.
 - b. As for the Southern Bell building and easement, see comment 5.
14. Statistical information has been revised accordingly.
15. No endangered species were observed on the project property.
16. No wetland mitigation is proposed for Phase I due to no construction within wetlands.
17. A statement regarding building standards has been added to the drawing.
18. An offsite utility plan drawing has been added to the set of drawings. This drawing is a result of conversations with the City's Engineering and Public Works Departments.

19. A street name has been added to the plan. This name was cleared with Mr. Bill Greiff of Volusia County Planning and Zoning Department.
20. We question the wisdom of adding pedestrian walkways within and adjacent to a business park and have deferred adding sidewalks to the plan until directed by the County in our Use Permit application.
21. Avagation easement negotiations are being addressed directly by Mr. Watson.
22. Secondary means of ingress have been indicated on the drawings as requested.
 - a. Subject easement has been designed to be stabilized as shown on the drawings.
 - b. Exclusive use of emergency easements will be provided by a break-a-way 4x4 post and chain.
 - c. Subject easements will be grassed and mowed.
23. The plans show those trees to be removed. Tree protection areas are contained within the landscape buffers. No further details regarding trees are scheduled for this submittal.
24. No wetlands are within Phase I construction.
25. Deed Restrictions regarding landscape requirements are being drafted by the developer's attorney. We will forward them to the City upon receipt.
26. Location and marking of fire hydrants have been amended as requested.
27. Deed Restrictions addressing sprinkler systems within the building are being drafted

by the developer's attorney.

28. The City is currently making capital improvements to the water distribution system that should supply more than a sufficient amount of water to the site.
29. The subject property is not within the 100 year flood plain as evidenced by the F.I.R.M map supplied with the Stormwater calculations.
30. The Marsh Point property was formerly zoned agricultural and did not require permitting prior to pulp wooding the property. My client has no intention of mitigating activities accomplished prior to the submittal of our sketch plan and subsequent application for annexation.
31. The wetland boundary depicted on the drawings was that established by Lorne Malo of the SJRWMD/DER and Joe Young of Ecoshores. Survey data regarding the established boundary was supplied by Arthur W. Steinman & Associates. Although Mr. Young indicated that the USACOE had previously established buffer areas of up to 200 feet wide on other projects, he felt that 25 feet would probably be used in this case. We have endeavored to keep all development in Phase I outside the 25 foot buffer zone.
32. Little Haw Creek Canal has been declared by FDER to be jurisdictional wetlands. As you may notice on the drawings, our client has graciously granted a 100 foot easement for the canal. This easement is generally centered along the meandering path of the canal. Survey information regarding the easement is available from Arthur W. Steinman & Associates.
33. The proposed stormwater retention/detention system is outside the canal easement and is not within any designated wetland.

34. As a professional engineer I am cognizant of the requirements of the State of Florida regarding stormwater treatment. No treatment is proposed within wetlands nor waters of the State.
35. Mitigation of wetland impacts for Phase II development will be addressed at the time of submittal of Phase II drawings.

We hope the above information is sufficient for a favorable recommendation from City staff. Should you have questions or wish to discuss any of these matters in further detail, please call me at 904-738-0462. Your consideration in these matters would be greatly appreciated.

Sincerely,



Michael T. McMahan, P.E.

MTM;vp

cc: Mr. Harold L. Watson, Developer

CITY OF DELAND

DELAND, FLORIDA 32721



POST OFFICE DRAWER 449
TELEPHONE: (904) 736-3900
FAX: (904) 736-9819

April 18, 1991

Harold L. Watson
Watson Development Company
1171 Glenwood Trail
DeLand, FL 32720

RE: PSB-91-02 Preliminary Subdivision Review of property located north of US 92, south of Old Daytona Road, East of Little Haw Creek, west of Marsh Road - Marsh Point Business Park

Dear Mr. Watson:

The application fee for Preliminary Subdivision Review is \$300 + \$10 for each lot over 20 lots due at the time of application. As Marsh Point Business Park has fewer than 20 lots, the amount due is \$300.

Please forward the required amount no later than Friday May 3, 1991, in order that we may proceed with the above referenced review. If you have any questions, please don't hesitate to contact the planning department at 736-3900 ext. 247.

Sincerely,

Gary Schindler
Gary Schindler, AICP
Planning Director

GS:emm

subdiv/PSB9102L

ENVIRONMENTAL CONSULTING GROUP, INC.

P.O. Box 181518, Casselberry, Florida 32718-1518

Phone: 407/696-4222

April 4, 1991

Gary Schindler, AICP
Planning Director
City of Deland
P. O. Drawer 449
Deland, FL 32721-0449

RECEIVED
APR 08 1991

PLANNING DEPARTMENT

RE: MARSH POINT BUSINESS PARK
ENVIRONMENTAL SERVICES FOR APPLICATION REVIEW
ECG PROJECT #313701
INVOICE #91-250

Environmental services rendered 3/1 through 3/31/91:

1. Consultation with client
2. Review of city comprehensive plan and ordinances
3. Review of Marsh Point Business Park site plan and report
4. Site investigation
5. Correspondence to city addressing wetland and Endangered, Threatened and Species of Special Concern issues
6. Travel and telephone expense

Due this invoice per contract \$800.00

Contract completed.

THANK YOU



CITY OF DELAND

DELAND, FLORIDA 32721



POST OFFICE DRAWER 449
TELEPHONE: (904) 736-3900
FAX: (904) 736-9819

March 25, 1991

Michael T. McMahan, P.E.
Davis, McMahan, Rogers, and Associates, Inc.
125 East Indiana Avenue, Suite A
DeLand, Florida 32724

RE: Z-910222: Marsh Point Business Park Planned Development

Dear Mr. McMahan:

The City of DeLand employed the Environmental Consulting Group to conduct a review of the Development Plan Report for Marsh Point Business Park. The review examines information sufficiency and makes environmental recommendations. The review does not include an assessment of the environmental conditions or provide any wetlands delineation.

The Marsh Point Business Park property is approximately 22 acres in size affronting Old Daytona Road, Marsh Road and US Highway 92 on the north, east and south sides, respectively. The west property boundary is along Little Haw Creek. The contour of the property falls toward Little Haw Creek. The property contains both uplands and wetlands with uplands consisting of scattered pine and dense saw palmetto. Wetlands consist of a forested area of loblolly bay along Little Haw Creek. One notable area (a bayhead) occurs in Phase II of the development. Areas immediately landward of the bayhead would be characterized as a seepage slope wetland, vegetated by a mixture of pine, loblolly bay and gallberry. Some land clearing has taken place along these seepage slope wetlands. The Soil Conservation Service soils map indicates that hydric (wetland) soils cover a significant portion of the property.

Wetland Boundary (Wetland Protection Zone)

The site plan does not identify the source/method of the wetland determination, but the Development Plan Report (letter from Ecoshores, Inc., 10/9/89) identifies the wetland boundary to be the FDER jurisdictional limits. The consultant's review of the Ecoshores letter both indicate that the USACOE wetlands boundary could extend landward of the DER wetland line. Although the surveyed wetland (DER line) is solely within the Phase II area, the USACOE (and possibly the DER/SJRWMD) wetland boundary would appear to extend into the western portion of Phase I along Little Haw Creek canal. The wetland area appears to include portions of lots 1 - 7 and the stormwater retention area. Therefore, not only will DER require authorization for the water line and force main cross-

Michael T. McMahan, P.E.

RE: Z-910222: Marsh Point Business Park Planned Development

March 25, 1991

Page 2 of 3

ing Little Haw Creek, but will also require authorization for the development of lots, roads and stormwater retention ponds in jurisdictional vegetative wetlands. The applicant should address the appropriateness of using waters of the State for stormwater retention.

Since a portion of the property has been cleared, the applicant should rely on soils, hydrology and vegetative species which have recovered as wetland indicators.

Wetland Transition Zone

As identified in both the adopted comp plan and the proposed land development regulations, the purpose of this zone is to ensure the continuing function of the Wetland Protection Zone. This zone, therefore, serves as a buffer and may be as wide as 200 feet, but no less than 25 feet. The applicant has not addressed this in the Development Plan Report. Due to the steep land contours, it is anticipated that a wetland protection zone will be necessary. Since land clearing has taken place along the edge of the wetlands and may have extended into wetlands, replanting of the Protection and Transition Zones may be necessary.

In summary, please submit the following:

1. a map of the wetlands delineating the wetland boundaries in accordance with the adopted comp plan and the proposed land development regulations and provide verification of these boundaries by regulatory agencies (DER, SJRWMD and USACOE);
2. a description of the existing and precleared conditions of the site including vegetative communities and hydrological conditions;
3. a description of wetlands which can be used to assess whether or not the development meets the criteria of the comp plan and the proposed land development regulations regarding professional standards for development within wetland protection and wetland transitional zones. In particular, the proposed stormwater retention area in wetlands and its impact(s) to wetlands (Waters of the State) and methods to offset impacts resulting from all development aspects of Phase I and Phase II encroachment into wetlands need to be addressed. Impacts to be considered include water quality, hydrology, habitat and vegetation. It is anticipated that mitigation for Phase II development will be required at a minimum ratio of 1:1.

Michael T. McMahan, P.E.
RE: Z-910222: Marsh Point Business Park Planned Development
March 25, 1991
Page 3 of 3

Endangered and Threatened Species

The development plan report does not address whether or not the site serves as potential habitat or is habitat for species listed by the Florida Game and Fresh Water Fish Commission as Endangered (E), Threatened (T) or Species of Special Concern (SCC). The site review found gopher tortoise burrows on the property. These burrows were assumed to be abandoned; however, active or inactive burrows may occur on site. Should E, T, or SSC species occur on site, a habitat management plan following the criteria of 33.04 as well as GFC and US Fish and Wildlife Service criteria will be required. The management plan should consider the precleared site conditions and habitat requirements for the listed species that will be assessed by state and federal agencies.

If after reviewing this information you have any questions, please feel free to contact the City's consultant, Reese H. Kessler, of Environmental Consulting Group, Inc., at (407) 696-4222 or me at 736-3900, extension 247.

Sincerely,



Gary M. Schindler, AICP
Planning Director

GMS:ngb

cc: Harold Watson
James Clayton
Hal Pyke
Astrid de Parry

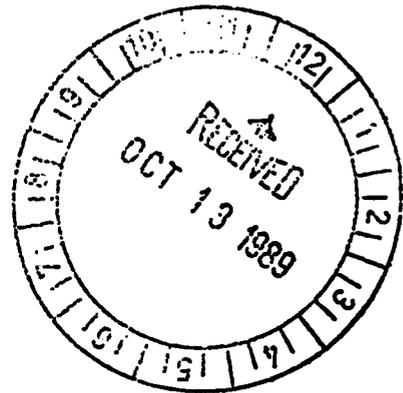
Attachment: Ecoshores Letter

L\Z910222L



Design for man in harmony with nature

ECOSHORES Inc.



October 9, 1989

Harold Watson
1171 Glenwood Trail
Deland, Florida 32720

Ref: Marsh Point Business Park Jurisdictional Wetland Limitations.

Dear Mr. Watson,

I'm writing in reference to the aforementioned project and the wetland that exist on the south half of the site.

The S.J.R.W.M.D., has indicated that the line I've flagged is the landward extent of waters of the state (ie. F.D.E.R. dredge/fill jurisdictional), and that if this project stays as a 40-C-42 stormwater permit then they will not expand the wetland area. These areas have hydric soils and wetland vegetation that they (S.J.R.W.M.D.) can claim.

The F.D.E.R. dredge and fill jurisdiction determination was made because of the ditch which conveys water from Little Haw Creek, and which connects vegetatively to the bay head on site.

The U.S.A.C.O.E. has not been to review the site at your request. I would expect the U.S.A.C.O.E. to claim everything that is shown as F.D.E.R. plus the areas that are interior on the site that the F.D.E.R. could not claim. The attached soils map indicates the soils (#61,56) are hydric or have hydric componets which support wetland species. Permitting fill is a possibility in some of the fringe F.D.E.R. areas, but I would expect the agency to require mitigation for those impacts.

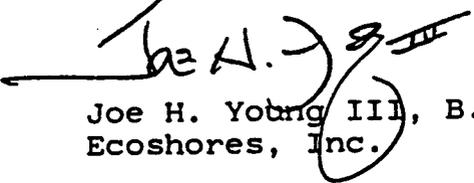
You can provide that mitigation by either planting shorelines in your retention areas (if wet detention is used) or by simply scraping down the existing berms adjacent to the ditch to a wetland species habitat elevation and planting in those areas. I would suggest proposing the latter. You may need a combination of the two to come up with the required area especially if a 2:1 ratio is imposed on your site.

I'd appreciate being copied on your plan so that if you intend to proceed with your project I might be aware of your proposal to the St. John's River Water Mgmt. District staff.

Additionally the areas you are talking about impacting will require U.S.A.C.O.E. review and permitting.

Thank you for your consideration with this project.

Sincerely,



Joe H. Young III, B.S.
Ecoshores, Inc.

JHY/mn

cc: M. McMahan w/att
file

CITY OF DELAND

DELAND, FLORIDA 32721



March 12, 1991

POST OFFICE DRAWER 449
TELEPHONE: (904) 736-3900
FAX: (904) 736-9819

Reece Kessler
Environmental Consulting Group, Inc.
P.O. Box 1518
Casselberry, Fl 32707-1518

Re: Environmental regulations for Marsh Point Business Park
PD.

Dear Mr. Kessler:

I am enclosing a copy each of the second preliminary draft of the proposed regulations concerning Habitat of Endangered or Threatened Species, and Wetlands. These are drafts which are proposed to be included in the City's Land Development Regulations. Copies of these two sets of regulations are being transmitted to the applicant as standards which they must address. Please use these in your review of the proposed development.

If you have any questions concerning this matter, please feel free to contact me at (904) 736-3900, ex. 247.

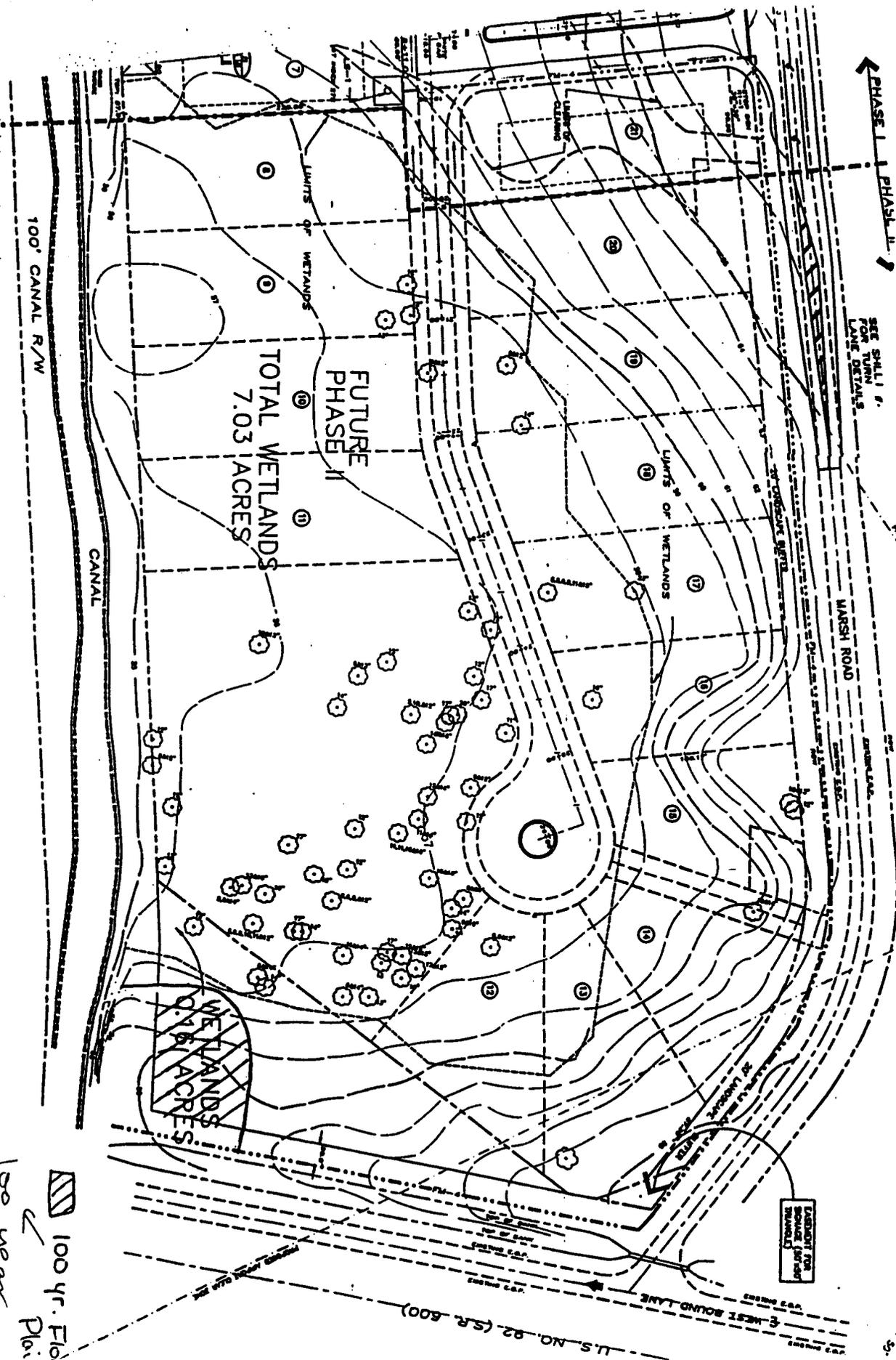
Sincerely,

Gary Schindler, AICP
Planning Director

GMS:emm

Enclosures

subdiv/kessler



← PHASE I PHASE II →

SEE SHEET # 1
FOR TURN
LINE DETAILS

FUTURE
PHASE II
TOTAL WETLANDS
7.03 ACRES

CANAL

100' CANAL R/W

MARSH ROAD

WETLANDS
0.16 ACRES

LABORATORY FOR
SOILS (SAR)
(SAR 100)

100 yr. Flood Plain
←
150 year
Flood
Plain

U.S. NO. 92 (S.R. 600)

SITE PLAN AND SUBDIVISION
ACTION REQUEST FORM

From: Planning Director

Date: March 4, 1991

To: Public Service Engineer
Chief Building Official
Assistant Utility Director
Utility Engineer
Fire Marshal
Parks Superintendent
Technical Review Secretary
Other.....

Site Plan - Subdivision

Class II site plan for Alumashield for a 3,780 square foot addition to the existing building. The applicant is asking for a variance from landscaping and tree protection requirements. The subject property is located in the Airport industrial park, at the intersection of Summerhill Drive and Industrial Drive.

At the Technical Review Committee Meeting of Thursday, February 14, 1991, at 2:00 PM, we will review this site plan. Please review and provide me with your written comments at the above referenced meeting.

MARSH POINT BUSINESS PARK

Meeting with H. L. Watson 3/25/91

In Attendance: G. Schindler, A. de Parry, Abra Dow, Jim Clayton, and Harold Watson

1. retail as an access use OK
 2. height of fence 8' OK? Fire Dept. (used M-1 ... storage of junk P. 600)
 3. Phase I only.
- * he hasn't contacted them at all according to telephone calls to DER, SJRWMD, and USACOE
 - * 22.07 acres (Phase I & II) on application.

abra/mtgnote

CITY OF DELAND

DELAND, FLORIDA 32721



POST OFFICE DRAWER 449
TELEPHONE: (904) 736-3900
FAX: (904) 736-9819

file

March 12, 1991

Michael T. McMahan, P.E.
Davis, McMahan, Rogers, and Associates, Inc.
125 East Indiana Avenue, Suite A
DeLand, Florida 32724

Dear Mr. McMahan:

The Marsh Point Business Park development plan and report prepared by Davis, McMahan, Rogers, and Associates was received on February 25, 1991. This site plan was reviewed by the City of DeLand's Department Heads and the revisions enumerated below are required prior to site plan approval. These comments and revisions should be applied uniformly to both the narrative of the development report and the site development plan.

From the Planning Department:

Land Uses:

* The land uses for the entire development shall be expressly limited to light industrial, wholesale, warehousing, heavy commercial, and contractor trade operations (see attachments: 33-12 and 33-11 except (A) (1)).

* No land uses involving general retail or general service, such as the land uses listed in the C-1 and C-2 zoning districts (see attachments: 33-9 and 33-10). Also, no residential uses will be permitted.

* Due to the proximity of lots #26, #27, and #30 to the abutting residential areas, the following uses will not be permitted on those lots:

- 1) cement manufacturing;
- 2) fertilizer manufacturing;
- 3) saw mills;
- 4) the storage of coal, coke, wood, or fuel; and
- 5) uses which have a restaurant or a cafeteria as an accessory use.

retail or an access use only

OK
OK

OK

problem

** problem **

problem

*# See PSB-91-02
for handwritten notes
of 2/28/91 TRC Review*

Parking Comments:

* The parking requirements must be revised to eliminate all references to prohibited uses, such as: "dwelling", "general business" and the like. Parking requirements will be as follows:

6/20
1/200 #

a) Contractor Offices: one parking space for each ~~200~~ ^{250?} square feet of office space and storage areas are subject to the parking requirements for warehouse space.

OK * Warehouses: one space per 1,000 square feet of gross floor area for the first 20,000 square feet plus parking required for space devoted to other uses. One space per 2,000 square feet for the second 20,000 square feet and one space per 4,000 square feet of gross floor area in excess of 40,000 square feet.

OK * Manufacturing: 1 parking space per 750 square feet of gross floor area devoted to manufacturing plus the required parking for square footage devoted to other uses.

OK * Parking specifications shall be approved by the City Engineer.

OK * Please address parking spaces for the handicapped.

Site Plan Revisions:

* The PD zoning regulations require that the building setbacks conform with those of the abutting districts. In addition to the twenty foot (20') landscape buffer depicted on the plan, the following setbacks, measured from the lot lines, apply to this project:

a) Along Old Daytona Road: lots #29 & #30 will have a minimum rear yard setback of thirty feet (30').

OK * Along the canal easement: all lots will have a minimum rear yard setback of twenty-five feet (25').

Garage
set. = 35'

OK * (c) Along the residential edges: lots #26, #27, and #30 will have minimum building setbacks of thirty feet (30').

OK * All other building setbacks discussed in "Development Building Standards" are acceptable; however, the site plan does not show setbacks of these dimensions (i.e.: minimum side yards of fifteen feet (15') per lot).

OK * Please show and address the Southern Bell equipment building located near the southeast corner of the project.

OK * Please show on the site plan all fences and visual screens required to buffer the abutting residential areas. These fences must be seven feet (7') in height, not six feet. OK

OK * Please indicate whether or not a guard shack will be located on the property. If so, indicate its placement on the site plan. OK

General Comments and Revisions:

OK * Preliminary plat approval is good for only one year. If you get preliminary plat approval for Phase II now, then you must request, annually, that the City Commission extend the life of the preliminary plat.

* Prior to the recording of the plat, the developer will prepare covenants and deed restrictions acceptable to the City of DeLand on the following topics utilizing the guidelines presented in this letter:

- traffic
- setbacks
- parking
- landscaping
- tree protection
- sign ordinances
- common space maintenance
- wetland conservation
- endangered species and habitat protection
- and other covenants or deed restrictions as stated in this letter.

? * Prior to the approval of the PD zoning designation, the applicant must reimburse the City for the cost of all environmental reviews incurred by the City.

* Prior to the recording of the final plat, all infrastructure improvements must be in place or bonded at 110% of the actual cost of improvements.

* Prior to the City's acceptance of the infrastructure plan, please provide a maintenance bond of 10% of the actual cost of infrastructure.

* Prior to the recording of the plat, the developer will pay the infrastructure inspection fee which will be equal to 1.5% of the actual cost of infrastructure or \$500 whichever is greater. OK

* Please provide a statement that the City will not be responsible for the maintenance of common space areas including stormwater retention areas. If the lots are to be sold separately, please provide an agreement for the maintenance of all common areas: the perimeter landscape buffer; tree protection area(s); wetlands conservation area; roadways; cul de sacs; and any other open spaces.

* According to the agencies of jurisdiction, no applications have yet been made for the necessary permits. Please provide a copy of the applications for the following permits:

- a) Water Distribution System Permit from DER;
- b) Wastewater Transmission and Collection Permit;
- c) Dredge and Fill Permit for Waterline and Force Main crossing of Little Hawk Creek from DER and the U.S. Army Corps of Engineers;
- d) Surface water permit from St. John's River Water Management District; and
- e) Stormwater and runoff permit from St. John's River Water Management District.

* Mitigation
* SWR
PH I
* Pls.
begin
now

* see Kessler's letter: auth. for dev. of lots, roads, & SW ret ponds within jurisdictional wetlands (vegetative)
In the narrative, covenants, and deed restrictions, please add a statement to the effect that land uses which produce hazardous waste will not be permitted to locate on any lot adjacent to the wetland area.

add notes
OK

* The preliminary plat plan shows a number of lots which are not identified or discussed. For example, lots on the southwest corner of the property are not numbered or labeled for conservation. The Southern Bell equipment building is not shown either. Please identify and discuss all parcels and their uses.

* The statistical information provided is inaccurate. For example, Phase I and II acreage add up to 21.04 acres but the total acreage is listed as 22.07 acres (please correct these numbers on the plans and in the text). The calculations use 30 units because the Southern Bell equipment building is not included. Please depict and include that building and use 31 units in any calculations. Density is a measure most commonly associated with residential dwelling units and is an interesting but unnecessary calculation for the review of a business park site plan.

* Please address phasing: identify all necessary infrastructure improvements by the phase of construction.

OK * Please address endangered species and habitat protection (see attachments). These issues should be addressed in the wetlands mitigation plan.

OK * Please state that all buildings will meet the minimum requirements of the Southern Building Codes and Standards for Construction, latest edition.

From the Engineering Department:

Sheet 4/9
Plans
Show
5" wm

* Although the site requires an eight inch (8") water main throughout the subdivision for proper circulation and fire protection, please show a twelve inch (12") water main and the City of DeLand will reimburse the developer for the cost difference. The City will prepare a utility/sewer agreement with provisions for the upsizing payment.

Sheet
4A/9

* Along the closed portion of Old Daytona Road, the developer is required to connect to a six inch (6") water main located approximately 1200' west of the northwest property boundary and run the water main east from the south end of Phase I to Marsh Road, then south and connect on the north side of U.S. 92 to the City's new water main. A new City jack and bore with water main will be extended in the summer of 1991 (see attachment).

OK

* Although not shown on the plans, it appears that a force main extending along the north edge of U.S. 92 is planned, please state clearly in the notes and on the plans whether the developer intends to hook up to the City's pump station at Langley Avenue. The City would like to upsize this force main to six and a quarter inches (6 1/4") and reimburse the developer for the cost difference. The City will draft a utility service agreement with provisions for the upsizing payment. Please provide lift station pump specifications and further design details (see attachment).

4' fm

* Please dedicate all internal streets to the City of DeLand. The streets must be 24' wide and curb details are needed. Also, provide street names acceptable to Volusia County. —OK

doesn't
want

* Address pedestrian transportation. Please provide a four foot (4') wide sidewalk along the west right of way for Marsh Road and a five foot (5') wide sidewalk in the landscape buffer at the property line along U.S. 92. Please provide access and maintenance agreements for both.

- stop*
- * An avagation easement is required between the City and the developer. Please contact Mr. Leo Connor, Economic Development Director for the City of DeLand, concerning this matter.

From the Parks and Recreation Department:

- * The developer will provide a second means of ingress/egress in Phase I which will run north/south from Old Daytona Road and an easement on the street side in Phase II. Both easements will be provided for use by emergency vehicles only and subject to the following:

OK a) Stabilize the emergency entrance easements for emergency vehicular use (20 tons) and show a detailed plan for stabilization.

OK b) Provide a narrative and detail explaining how these easements will be maintained for the exclusive use of emergency vehicles. How will other vehicular uses be prevented?

c) Provide landscaping details for both emergency entrance easements.

- tree survey incl.*
- * Please develop further plans for tree protection which depict the eight (8) acres (or 356,546 square feet) identified on the tree protection worksheet (copy included). Also, indicate on a tree survey which specific trees and specimens will remain and which will be removed. Are pine trees included on the tree worksheet as existing trees utilized to meet protection requirements?

Ph 21 only

- * Please show clearly on the plans which lots are reserved for wetlands conservation and which will be developed. Include the proposed wetlands conservation area as well as the existing wetlands acreage.

- * Please provide an expanded narrative to describe the external landscape buffer, the entrance way, and buffering between internal land uses. Discuss the minimum landscape buffer requirements between internal land uses; the width of front, side, and rear buffers; numbers of trees and shrubs; and landscaping around vehicular use areas (in industrial use districts vehicular use landscaping may be reduced by one half).

- * Provide a letter stating that property owners will be subject to all applicable landscaping regulations, sign ordinances, and tree protection requirements (Chapters 33, 29, and 25 respectively).

From the Fire Department:

- * All hydrant locations shall be marked using an approved reflector, blue in color, placed in the center of the driving lane closest to the hydrant.
- * As depicted on the plans, hydrant spacing is unacceptable. Please revise the plans to show a maximum of three hundred feet (300') between hydrants (N.F.P.A. 1141).
- * Any buildings that are sprinklered will require a fire hydrant located within one hundred and fifty feet (150') of the fire department connection for the sprinkler system.
- * Flow shall be a minimum of 1,000 GPM with a residual pressure of 20 PSI. Please provide evidence that these standards can be achieved or address the improvements necessary to achieve them.

F-130
3/12/91

Environmental Issues:

OK * The City of DeLand's environmental consultant cannot comment on this project due to a potential conflict of interest. As a result, another consultant has been hired to review this project's environmental impacts. Since he was included in the review process at a later date, his comments will follow under separate cover.

OK * At this time, the City will withhold any comments concerning the acceptability of using wetlands for stormwater retention for Phase II. This issue will be addressed in a separate letter containing the environmental review comments.

doesn't plan to mitigate
↓

* The development report and the preliminary plat both identify portions of lot #7 which are contained in the boundary of the wetlands. On the final plat, the wetlands area shall be identified and measures acceptable to the City will be taken to preserve this area in a natural state. Covenants and deed restrictions shall also preserve this wetland area. Please revise the narrative to address this area.

* The City asks that you prepare a wetlands mitigation plan which will be reviewed and approved prior to the development of Phase II by the City, DER, SJRWMD, and the Army Corps of Engineers.

Mr. H. L. Watson
March 12, 1991
Page 8

Mike
says
no.

OK* The City questions whether the property contains any 100 year flood plain areas (see attached map).

If any questions should arise after reviewing these comments and revisions, please do not hesitate to call Abra Dow or Gary Schindler at the City of DeLand Planning Department (telephone # 904-736-3900, extension 270).

Sincerely,

G. M. Schindler
Gary Schindler, AICP
Planning Director

attachments

cc: Mr. H. L. Watson, Developer
Mr. Reese Kessler, Environmental Consultant
Ms. Astrid deParry, City Attorney

ARTICLE VIII

RESOURCE PROTECTION STANDARDS

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Attached to 3/12/91 ltr. to McMahon

| | | |
|----------|---|----|
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referred to 2/15/81 by Mr. [unclear]

ARTICLE VIII

RESOURCE PROTECTION STANDARDS

33-** *Wetlands*

33-**.01 *Findings of Fact*

The City of DeLand City Commission has determined that wetlands contiguous to waters of the State, non-contiguous and isolated wetlands serve the following important functions in the hydrologic cycle and ecological system and therefore require protection for the following reasons::

- (A) Riverine wetlands and adjacent floodplain lands provide natural storage and conveyance of flood waters.
- (B) Wetlands provide temporary storage of surface waters during times of flood, thereby regulating flood elevations and the timing, velocity and rate of flood discharge.
- (C) Wetlands temporarily store flood flows and reduce the velocity of the flood waters, reducing erosion and facilitating the settling of suspended sediment. Wetland vegetation filters and detains sediment which would otherwise enter lakes and streams.
- (D) Wetlands may protect water bodies by providing settling of suspended sediments, assimilation of nutrients and uptake of other natural and man-made pollutants. Wetland vegetation filters sediment, organic matter and chemicals. Microorganisms utilize dissolved nutrients and break down of organic matter.

- (E) Wetlands adjacent to rivers, streams, and lakes are important to freshwater fisheries as spawning grounds.
- (F) Wetlands provide essential breeding and predator escape habitats for many forms of mammals, birds, reptiles, amphibians, fishes and invertebrates.
- (G) Wetlands provide essential habitat for many rare, endangered, and threatened species.
- (H) Wetlands provide excellent recreational opportunities including, but not limited to, fishing, hunting, camping, photography, boating and nature observation.
- (I) Wetlands, especially those in karst terrain, do contribute to surface water storage and may contribute to groundwater recharge.
- (J) Considerable acreage of wetlands have been lost, and their important functions impaired, by draining, dredging, flooding, filling, excavating, building, polluting, and other acts. Remaining wetlands are in jeopardy of being lost or impaired by such acts.
- (K) The continued loss of wetland functions are contrary to the public health, safety and welfare.
- (L) Although federal, state, and regional regulations provide some protection for wetlands and their functions, the city has the authority, which it must use, to adopt additional regulations in order to assure that the resource protection requirements contained in the conservation element of the City of DeLand Comprehensive Plan and the Volusia County Minimum Standards

for Environmental Protection ordinance are fully implemented.

[29B-2]

*33-**.02 Purpose and Intent*

It is the purpose and intent of this Part to provide for the protection, maintenance, enhancement and utilization of wetlands within the City of DeLand, recognizing the rights of individual property owners to use their lands in a reasonable manner as well as the rights of all citizens to protection and purity of the waters of the City of DeLand and their associated wetland ecosystems. It is the policy of the City of DeLand to minimize the disturbance of wetlands in the city and to encourage their use only for the purposes which are compatible with their natural functions and environmental benefits. It is further the purpose and intent of this Part to insure that there be no net loss of wetlands as defined herein. To this end, a wetland management plan shall be required as provided herein. [29B-2]

*33-**.03 Applicability Of Terms And Provisions*

Except as provided in 33-**.08 of this Part, the terms and provision of this Part shall apply to all unimproved real property, all publicly owned lands, all public or private rights-of-way, and all improved real property, when and if any new development is proposed for such property, lands or rights-of-way. [29B-4]

33-**.04 Definitions

As used in this Part, the following words shall be defined as follows:

(A) *Adverse Effects*

Any modifications, alterations, or effects on waters, associated wetlands, or shorelands, including their quality, quantity, hydrology, surface area, species composition, or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the reasonable use of property, including outdoor recreation. The term includes secondary and cumulative as well as direct impacts.

[MC]

(B) *Beneficial Functions Of A Wetland*

Those functions, described in the Conservation Element of the Comprehensive Plan and Findings of Fact contained at 33-**.01 of this Part, that justify protection of wetlands. [MC]

~~(C) *Best Management Practices (BMP)*~~

~~Management practices prescribed in *Silviculture Best Management Practices Manual*, prepared by the Florida Department of Agriculture and Consumer Services, Division of Forestry. [29B-3(d)]~~

[COMMENT: Although this term is defined in the proposed DeLand ordinance, the term was not used. It is therefore recommended for deletion.]

(C) *Transitional zone*

Upland areas adjacent to wetlands which are necessary to protect the wetlands and wetland species from the detrimental impacts of development or alteration. The transitional zone shall include canopy, understory and groundcover which consists of preserved existing vegetation or planted native species. [29B-3(c)]

(D) *Clearing*

The removal of trees, brush or any other vegetation from the land, not including the ordinary mowing of grass. [MC]

(E) *Dredging*

Excavation by any means in any waterbody or wetland. Excavation or creation of a water body which is, or is to be connected to waters, directly or via excavated water bodies or a series of excavated water bodies. [29B-3(e)]

(F) *Fill*

Depositing of any materials by any means in any waterbody or wetland. [MC]

(G) *Isolated Wetland*

Any wetland that has no hydrological or vegetative connections with any water of the state as defined in §327.02 (28) Florida Statutes. [29B-3(g)]

(H) *Mitigation*

Any action, including but not limited to, restoration, enhancement, or creation of wetlands, required to be taken in order to offset environmental impacts of permitted activities. [MC]

(I) *Pollutant*

Any substance, contaminant, noise, or manmade or man-induced alteration of the chemical, physical, biological, or radiological integrity of air or water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation. [MC]

(J) *Significant Adverse Effect*

Any modification, alteration, or effect upon a wetland protection or wetland transitional zone which measurably reduces the Area's beneficial functions as delineated in the Conservation Element of the City of DeLand Comprehensive Plan. [MC]

(K) *Water or Waters*

Includes, but is not limited to, water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, streams, rivers, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground. [MC]

(L) *Water Body*

Any natural or artificial pond, lake, reservoir, or other area with a discernible shoreline which ordinarily or intermittently contains water. [MC]

(M) *Watercourse*

Any natural or artificial channel, ditch, canal, stream,

river, creek, waterway or wetland through which water flows in a definite direction, either continuously or intermittently, and which has a definite channel, bed, banks, or other discernible boundary. [MC]

(O) *Wetland Vegetation*

Vegetation identified as wetland species in Rule 17-3.002 Florida Administrative Code. [MC]

(P) *Wetlands*

Lands which are identified by being inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do or would support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The definition includes all contiguous and noncontiguous or isolated wetlands to waters, water bodies, and watercourses. Wetlands include, but are not limited to swamp hammocks, hardwood hybrid hammocks, riverian cypress, cypress ponds, bayheads, bogs, wet prairies, freshwater marshes, tidal flats, salt marshes, mangrove swamps and marine meadows. Dominant wetland vegetation shall be determined as provided in Rule 17-3.002, Florida Administrative Code. [MC]

33-**.05 *Issuance Of Certificate Of Occupancy*

Compliance with this Part, including any conditions attached to the wetlands alteration permit shall be a condition to the issuance of a certificate of occupancy. [29B-16]

33-**.06 *Relationship To Other Requirements Relating To
Wetland Protection*

In addition to meeting the following wetlands protection requirements, development plans shall comply with applicable federal, state and water management district regulations. In all cases the strictest of the applicable standards shall apply. [MC]

33-**.07 *Protection Zones Established*

Two zones of protection for wetlands are hereby established. The protection zones shall be known as the wetland protection and wetland transitional zones.

(A) *Wetland Protection Zone*

There is hereby created a "Wetlands Protection Zone" in which special restrictions on development apply. The boundaries of this zone shall be the most landward extent of the following:

- (1) Areas within the dredge and fill jurisdiction of the Department of Environmental Regulation as authorized by Section 403 of the Florida Statutes.
- (2) Areas within the jurisdiction of the U. S. Army Corps of Engineers as authorized by section 404, Clean Water Act or Section 10, River and Harbor Act.
- (3) Areas within the jurisdiction of the St. Johns River Water Management District pursuant to Rule 40C-4, Florida Administrative Code.
- (4) Development requiring a permit or permits from one or more of the U. S. Army Corps of Engineers, the Florida

Department of Environmental Regulation, and the St. Johns River Water Management District, shall have the most restrictive agency wetlands boundary determination recognized by the city as the wetlands boundary. The term most restrictive is used here to mean the boundary covering the largest area. [29B-6(b)]

[COMMENT: The language in the draft wetland protection ordinance states that "If the proposed project requires multiple permits from a federal, state, or regional agencies, a city jurisdictional determination shall not be required". The intent of that statement is unclear. The language proposed here is intended to recognize any of the agency boundary determinations, and where there is more than one agency boundary determination involved, the most restrictive is recognized. The intent of this definition is to use wetlands boundaries that will have already been determined, rather than having the city create yet another jurisdictional line.]

- (5) In circumstances where the natural boundary of wetland vegetation is unclear, the line of demarcation may be approximated at a surveyed elevation measured at a location in the same wetland where the natural line is clear. [29B-6(a)]
- (6) In the event an undeveloped area has been recently cleared of all vegetation, the wetland boundary may be determined by a study of the soils, aerial mapping,

photography, hydrology, and other relevant historical information. [29B-6(a)]

- (7) Land areas that no longer retain the characteristics, function, and value of a wetland may be exempt from the requirements of this Part.

[COMMENT: Paragraph (7) is intended to implement Policy 1.4.1 d. of the Conservation Element of the City of DeLand Comprehensive Plan.]

(B) Wetland Transitional zone

There is hereby created a "Wetland Transitional zone" adjacent to each wetland protection zone. The transitional zone is an area having a direct ground water or surface water influence and provides a transitional zone between wetlands and development or other land alteration activities. The purpose of the transitional zone is to ensure the continuing function of wetland communities by minimizing the adverse effects development within the wetland transitional zone may have upon the wetland itself. This zone shall encompass all land within two hundred (200) feet of the boundary of the wetland protection zone unless the applicant is able to produce competent substantial evidence demonstrating through a field investigation that the functions of the wetland can be protected with a smaller transitional zone. In no case, however, shall a transitional zone of less than twenty-five (25) feet be permitted. [29B-11]

[COMMENT: This provision is intended to implement the requirements of Policy 1.4.1 b. of the Conservation Element of the City of DeLand Comprehensive Plan which calls for the use of "transitional" protection areas adjacent to wetlands. The

two hundred (200) foot transitional zone is a suggestion only.
The city may want to use a different size transitional zone.]

33-**.08 Exemptions

Activities which are exempted from this Part include:

- (A) Nonmechanical clearing of vegetation from an area of less than ten (10) percent of the protected zone.
- (B) Minor maintenance or emergency repair to existing structures of improved areas.
- (C) Cleared walking trails having no structural components.
- (D) Timber catwalks and docks four (4) feet or less in width.
- (E) Utility crossings.
- (F) Maintenance, together with incidental dredge and fill activities in ditches, retention and detention areas, public road and other rights-of-way, and other related drainage systems.
- (G) Bona fide mosquito control activities reviewed by the Technical Subcommittee on Managed Marshes.
- ~~(H) Bona fide agricultural uses.~~

[COMMENT: Although this exemption for bona fide agricultural uses is contained in the proposed DeLand wetland ordinance, it is deleted here because it is in conflict with Policy 1.2.3 of the Conservation Element of the City of DeLand Comprehensive Plan which requires a prohibition on the expansion of agricultural activities into wetland areas.]

- (H) Wetlands one half (1/2) acre or smaller, provided, however, if the entire wetland exceeds this threshold for exemption whether on one or more lots, then the entire wetland is regulated as otherwise provided in this Part.

- (I) Activities within artificial wetlands which are created as part of a man-made treatment system.
- (J) Activities where a federal, state, regional, or city government completed dredge and fill or wetland application was tendered to said government on or before the adoption of this Part.
- (K) Silviculture activities which follow the best management practices outlined in the publication, *Silviculture Best Management Practices Manual*, Florida Department of Agriculture and Consumer Services, Division of Forestry most recent edition. Provided, however, failure to follow said practices shall be a violation this Part. The use of the Management Guidelines for Forested Wetlands published by the Florida Department of Agriculture and Consumer Services shall be encouraged. [29B-12]

33-**.09 *Permits And Application Requirements*

(A) *Permit Requirement*

Except as provided in Section 33-**.08 of this Part, it is hereby unlawful for any person to engage in any activity which will remove, fill, drain, dredge, clear, destroy or alter any wetland as defined in this Part, without obtaining a wetland alteration permit from the City in accordance with the provisions of this Part. Said permit may be issued concurrently or in conjunction with other land development permits issued by the city or other federal, state, regional

and local levels. Appeal procedures in connection with the issuance of wetland alteration permits are provided in Section 33-**.15. [29B-5]

(B) *Application Requirements*

Any person who is required to obtain a wetland alteration permit shall submit an application to the planning department on a form to be supplied by the city. The wetland alteration permit application shall be filed concurrently with any applicable application for site plan review or plat approval. The application shall include, but is not limited to the following:

- (1) A sketch, map or survey with the type and extent of wetland mapped to scale, unless previously depicted on an approved permit application from a federal, state, or regional agency.
- (2) For projects which impact one half (1/2) acre or more, a wetland management plan that shall contain sufficient information for the city to evaluate the environmental characteristics of the wetlands, the potential and predicted impacts of the proposed activities on wetlands and the effectiveness and acceptability of those measures proposed by the applicant for reducing adverse impacts. The wetland management plan should include but not be limited to a detailed analysis of the following:
 - (a) A description of all water bodies, water courses, and wetlands on-site and a general description of

wetlands immediately adjacent to the site.

- (b) A map of the natural systems on the site, including topography, vegetative communities, soils, and drainage patterns.
 - (c) The existing environmental and hydrologic conditions of the site.
 - (d) A plan for control of erosion and sedimentation which describes in detail the type and location of control measures, and provisions of maintenance.
 - (e) A detailed description of methods to be utilized in meeting the criteria listed in Section 33-**.10 of this Part.
- (3) The City may issue a wetlands alteration permit, which may incorporate the general and specific conditions which were made part of the permit from Federal, State, or regional agencies. Provided, however, before the issuance of the local government wetlands alteration permit, said Federal, State, or regional permit application when available shall be furnished to the City. Concurrent applications to the City and any Federal, State, or regional agency shall be encouraged.
- (4) The wetland alteration permit shall not be approved unless the Wetland Management Plan clearly indicates that the proposed development will meet the performance standards described in section 33-**.10 of this Part.
- (5) Other information which the city may require to determine

whether to approve the wetlands alteration permit.

[29B-7]

(C) *Reimbursement To City*

At any point in the review process of a site plan, plat, or land development permit, the City may require that a submitted wetland management plan be reviewed by a consulting firm that has the environmental expertise to conduct such a review. The cost of this review shall be the responsibility of the applicant. Site plan approval, plat approval, or the issuance of a land development permit is conditional upon the applicant reimbursing the City for any costs incurred in any such review. Additionally the cost of any on-site inspections shall be the responsibility of the applicant. The issuance of a certificate of occupancy shall be conditional upon the applicant reimbursing the City for any costs incurred for any such inspections. [29B-18]

33-**.10 *Performance Standards For Development Activity Within
Wetland Protection And Wetland Transitional Zones*

(A) *Generally*

There shall be no net loss of wetland function. Any alteration of wetlands shall be mitigated in accordance with the requirements of section 33-**.11. Wetlands shall be protected from sedimentation during development activities. Wetlands shall be protected or used in a manner which do not adversely impact their beneficial functions as provided in the

City of DeLand Comprehensive Plan.

(B) *Wetland Protection Zone*

Except as expressly provided herein, there is hereby established a presumption that development activity will have an adverse effects on wetlands. Except as provided for hereing, no development activity shall be undertaken in a wetland protection zone.

(1) *Activities Presumed To Have An Insignificant Adverse Effect On Wetland Protection Zones*

Certain activities are presumed to have an insignificant adverse effect on the beneficial functions of a wetland. These activities may be undertaken unless it is shown by competent and substantial evidence that the specific activity would have a significant adverse effect on the wetland protection zone. The following uses and activities are presumed to have an insignificant adverse effect on wetland protection zones:

- (a) Scenic, historic, wildlife, or scientific preserves.
- (b) Minor maintenance or emergency repair to existing structures or improved areas.
- (c) Cleared walking trails of four (4) feet or less in width and having no structural components.
- (d) Timber catwalks and docks four (4) feet or less in width.
- (e) Commercial or recreational fishing or hunting, and

- creation and maintenance of temporary blinds.
- (f) Cultivating agricultural or horticultural products that occur naturally on the site.
 - (g) Constructing fences where no fill activity is required and where navigational access will not be impaired by construction of the fence.
 - (h) Developing an area that no longer functions as a wetland, except a former wetland that has been filled or altered in violation of any rule, regulation, statute, or this Chapter. The developer must demonstrate that the water regime has been permanently altered, either artificially or naturally, in a manner to preclude the area from maintaining surface water or hydroperiodicity necessary to sustain wetland structure and function. If the water regime of a wetland has been artificially altered, but wetland species remain the dominant vegetation of the area, the Department shall determine the feasibility of restoring the altered hydrology. If the wetland may be restored at a cost that is reasonable in relation to benefits to be derived from the restored wetland, the developer shall, as a condition of development, restore the wetland and comply with the requirements of this Chapter.
 - (i) Developing a "Wetlands Storm Water Discharge

Facility" or "Treatment Wetland" in accordance with state permits received under Chapters 17-25 and 17-6, Florida Administrative Code. [MC]

(2) *Special Uses*

[COMMENT: Certain uses that provide substantial public benefits may not be viable unless permitted to encroach upon a wetland, e.g., a marina that may require the use of wetland areas for lack of suitable non-sensitive sites adjacent to a water body. The city may decide to allow these uses in sensitive areas despite some damage to the area. The following example which has been adapted from the Model Code, creates an exception for water dependent uses, accompanied by mitigation requirements. The conservation element appears to make provision for such allowances in Policy 1.4.1.]

(a) Water Dependent Activities

Designated water dependent activities that are otherwise prohibited may be allowed if the developer shows that the public benefits of the activity substantially outweigh the adverse environmental effects on a wetland area, and that no practicable alternative to placement in the wetland area exists.

(b) Permittable Water Dependent Activities

The following are permittable water dependent activities:

- (i) Projects not exceeding ten thousand (10,000) cubic yards of material placed in or removed from watercourses, water bodies or wetlands.
- (ii) Dockage or marinas where dock length does not exceed twenty-five (25) percent of the width of the water body and containing less than one

- (1) slip per one hundred (100) feet of shoreline. All docks and slips shall be at least one hundred (100) feet from any federal navigation project.
- (iii) New riprap or similar structures (not including seawalls, bulkheads or the like) not exceeding fifty (50) feet of shoreline.
 - (iv) Installation of buoys, aids to navigation, signs, and fences.
 - (v) Performance of maintenance dredging for ten (10) years from the date of the original permit. Thereafter, performance of maintenance dredging so long as less than ten thousand (10,000) cubic yards of material is removed.
 - (vi) Installation of subaqueous transmission and distribution lines for water, wastewater, electricity, communication cables, oil or gas. Lines may be entrenched in (not exceeding ten thousand (10,000) cubic yards of dredging), laid on, or embedded in bottom waters.
 - (vii) Construction of foot bridges and vehicular bridges.
 - (viii) Replacement or widening of bridges on pilings or trestles where the effects of pollutants discharged into open waters are minimized.

- (xi) Construction of artificial reefs.

[COMMENT: These allowable water dependent activities are similar to those included in the rules of the Florida Department of Environmental Regulation. Fla. Admin. Code Rule 17-12.090.]

- (c) Minimization Of Impacts

The water dependent activity shall be designed, constructed, maintained and undertaken in a way that minimizes the adverse impacts on the beneficial functions of the effected wetland area.

(C) *Wetland Transitional Zone*

- (1) *Generally.* All development in a Wetland Transitional Zone shall be designed, constructed and maintained to avoid significant adverse effects on the adjacent environmentally sensitive zone.
- (2) *On-Site Transfer Of Development.* The acreage within a wetland protection zone may be used to determine the total allowable units or square footage of development that will be allowed on a site containing all or part of such a zone. This development potential may be transferred from the wetland protection zone to the wetland transitional zone as provided for in the clustering provisions in Article 11 of this Chapter. Allowable development potential may not, however, be transferred from without the area encompassed by the wetland protection and wetland transitional zones to within such area.
- (3) *Special Design Standards for Wetland Transitional zones.*

The following special design standards apply within wetland transitional zones:

- (a) Wherever possible, natural vegetative buffers shall be retained between all development and all wetland protection zones. If a natural vegetative buffers does not exist, an equivalent buffer shall be created. The size of the buffer shall be the minimum necessary to prevent significant adverse effects on the wetland protection zone but in no case shall be less than twenty-five (25) feet. The factual basis of the decision as to the size of the transitional zone shall be stated as a finding in the written record. Except as otherwise provided herein, no development shall be permitted within the required buffer. The required buffer shall not, however, impede reasonable access to a body of water. The following activities or construction which do not have a significant adverse effect on the natural function of the buffer may be allowed within the buffer. The activities or construction include, but are not limited to pruning, planting of suitable native vegetation, removal of exotic and nuisance pioneer plant species, and the creation and maintenance of walking trails.
- (b) The developer shall completely restore any portion of a wetland protection zone damaged during

construction. Complete restoration means that the damaged area shall, within two (2) years, be operating as effectively as the natural system did prior to being destroyed.

(c) Other reasonable protective measures necessary to prevent significant adverse effects on a wetland protection zone may be required. The factual basis of the decision to require the measure shall be stated as a finding in the written record. Protective measures may include, but are not limited to:

- (1) Maintaining natural drainage patterns.
- (2) Limiting the removal of vegetation to the minimum necessary to carry out the development activity.
- (3) Expeditiously replanting denuded areas.
- (4) Stabilizing banks and other unvegetated areas by siltation and erosion control measures.
- (5) Minimizing the amount of fill used in the development activity.
- (6) Disposing of dredged spoil at specified locations in a manner causing minimal environmental damage.
- (7) Constructing channels at the minimum depth and width necessary to achieve their intended purposes, and designing them to prevent

slumping and erosion and allow revegetation of banks.

- (8) Dredging wetlands at times of minimum biological activity to avoid periods of fish migration and spawning, and other cycles and activities of wildlife.
- (9) Designing, locating, constructing and maintaining all development in a manner that minimizes environmental damage.
- (10) Prohibiting septic tanks or locating them away from high groundwater areas and peaty soils.
- (11) Using deed restrictions and other legal mechanisms to require the developer and successors to protect the environmentally sensitive areas and maintain the development in compliance with the protective measures.

[COMMENT: This provision is intended to implement Policy 1.4.1 b. of the Conservation of the City of DeLand Comprehensive Plan.]

33-**.11 Mitigation

(A) Generally

If an applicant fails to overcome the presumption that the proposed activity will have a significant effect upon the wetland, and the city finds the imposition of permit conditions inadequate to minimize potential adverse environmental effects, mitigation shall be required. The purpose of mitigation is to offset unavoidable environmental

impacts. Mitigation plans should consider the function of existing natural resources and provide comparable functions after mitigation is completed. Mitigation plans should maximize the preservation of existing natural resources. An acceptable mitigation plan shall be reasonably and technically feasible. Mitigation through restoration of other degraded wetlands is preferred over wetland creation. Mitigation should take place on site or in close proximity thereto or in areas so designated as provided in Section 33-**.12. [29B-9] A mitigation plan approved by a federal, state, or regional agency shall be presumed to be acceptable to the city, provided however, if no such mitigation plan is required by the approved permit from the federal, state, or regional agency, then the city shall require a mitigation plan in compliance with this section. Mitigation should not contribute to the production of mosquitoes by creating mosquito larval habitat or by eliminating habitat for predatory fish. [29B-10] The mitigation plan shall consider the following methods, in order of priority in which they should be utilized:

- (1) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (2) Minimizing impacts by limiting the degree or magnitude of the action or its implementation.
- (3) Rectifying the impact by repairing, rehabilitating, or restoring the effected environment.

- (4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (5) Compensating for the impact by replacing or providing substitute resources or environments through enhancement of existing wetlands or reestablishment of wetlands which are no longer functioning or creation of new wetlands.
- (6) Replacement of the same type of wetland of at least a one (1) to one (1) ratio unless the value of the wetland based on its functional value is determined to warrant a greater or lesser ratio. There should be like kind replacement, i.e., salt water system for saltwater system, freshwater for freshwater where practical.
- (7) Specific design requirements based upon conditions of the site and the type of wetland to be created or restored.
- (8) Periodic monitoring to remove exotic or nuisance vegetation.
- (9) Monitoring and replacement to assure a survival rate of eighty (80) percent wetland vegetation for a minimum of three (3) years.
- (10) An upland habitat as an adjacent transitional zone on mitigated sites.

(B) Mitigation For Special Uses

Compensatory mitigation, by which wetlands are purchased, created, enhanced and/or restored to compensate for the loss

of such lands, is required whenever a special use is allowed under Section 33-**.10(A)(2) of this Part. The purchased, created, enhanced, or restored wetland must be of the same type as that destroyed or degraded. Compensatory mitigation shall not be the basis for approving a project that could not otherwise be approved. A developer of a compensatory mitigation plan shall grant a conservation easement under Section 704.06, Florida Statutes, on the newly purchased, created, enhanced or restored environmentally sensitive lands to protect them from future development.

(C) *Conservation Easements*

An applicant who carries out a compensatory mitigation plan shall grant a conservation easement on the newly-created or restored wetland and transitional zone to protect it from future development. A legal mechanism other than a conservation easement may be deemed appropriate on a case by case basis to carry out the purpose of the subsection. [29B-10]

33-**.12 *Environmental Planning*

The City shall designate lands which are suitable for creation, acquisition, restoration or preservation of wetlands or wetland habitat systems, including adjacent upland habitat. The purpose of such designation is to identify areas suitable for the off-site mitigation of the impacts of wetland alteration. Such lands may be on public or private property. [29B-9]

33-**.13 *Prohibited On-Going Activities*

The following standards apply to post-development activities taking place within any Restricted Development Zone or Protected Environmentally Sensitive Zone.

(A) *Point Source and Nonpoint Source Discharges*

Absent an amendment to the development order, point source and nonpoint source discharges shall continue to meet the standards applicable to the original development.

(B) *Clearing*

Absent an amendment to the development order, no person shall clear more vegetation than was permitted for the original development.

(C) *Handling and Storage of Fuel, Hazardous and Toxic Substances, and Wastes*

(1) Developments where fuel or toxic substances will be stored, transferred, or sold shall employ the best available facilities and procedures for the prevention, containment, recovery, and mitigation of spillage of fuel and toxic substances. Facilities and procedures shall be designed to prevent substances from entering the water or soil, and employ adequate means for prompt and effective clean-up of spills that do occur.

(2) No toxic or hazardous wastes or substances shall be stored in outdoor containers.

(3) Storage or disposal of all types of wastes is prohibited on shorelines.

(D) *Prohibited Uses*

The long-term storage of equipment or materials, and the disposal of wastes shall be prohibited.

(E) *Fertilizers, Herbicides, or Pesticides*

(1) Fertilizers, herbicides, or pesticides shall not be applied in a Protected Environmentally Sensitive Zone except for projects conducted under the authority of Sections 373.451-373.4595, Florida Statutes, the Surface Water Improvement and Management Act, and governmentally authorized mosquito control programs.

(2) Fertilizers, pesticides, and herbicides used in Restricted Development Zones shall be applied sparingly and at appropriate rates and time intervals.

(F) *Spray Vehicles*

Vehicles used for mixing or spraying chemicals are prohibited from withdrawing water directly from waters.

(G) *Pump-out, Holding, and Treatment Facilities for Wastes from Mobile Sources*

Sewage, solid waste, and petroleum waste generated by vessels or vehicles on the site shall be properly collected and disposed of.

[COMMENT: Enforcement of standards for post-development activities is not addressed in this Chapter. The city should either enforce post-development standards (if any are adopted) through an existing enforcement process or create a process to enforce post-development standards.]

33-**.14 Administration and Enforcement

(A) Inspections

(1) Construction Inspection. During the process of site clearing, an authorized agent of the City may make periodic inspections to ensure that the proposed work is being done in compliance with the Wetlands Alteration Permit and the requirement of this Chapter.

(2) Final Inspection. After all proposed clearing has been completed and all required wetlands preservation measures have been implemented, an authorized representative of the City shall make a final inspection to verify that all work has been completed in compliance with the Wetlands Alteration Permit and the requirements of this Chapter. No building permit or Certificate of Occupancy may be issued until the terms of this Chapter have been met. [29B-13]

(B) Fees

Permit fees shall be set by resolution of the City Commission.
[29B-14]

(C) Violation, Stop Work Order And Enforcement

(1) The City shall issue a "Stop Work Order" to any person found in the act of altering, destroying, damaging or removing wetlands in violation of this chapter or revoke the building permit for the subject property. The stop work order shall not be withdrawn or the building permit reinstated until the owner or

developer has posted a bond and submitted and acceptable restoration plan to the City. The amount of the bond shall be one hundred ten percent of the estimated cost of replacing or repairing the wetland for the property, as determined by the City. The bond shall be retained by the City for a period of two (2) years after the replacement or repairing of the wetland and its vegetation and may be used by the City to ensure survival or replacement of any of the replacement or repaired wetland. The primary consideration of the restoration plan shall be to return the effected portion of the property to its natural state, or if that is impossible, to counterbalance the negative effects of the violation over the entire property to the greatest extent possible. In evaluating a proposed restoration plan, the City shall consider the following:

- (a) The area of the wetland altered or destroyed.
- (b) The specific aesthetic character of the material removed.
- (c) Any special function the material carried out as a screen or buffer.
- (d) The amount of other natural material preserved on the site, and the opportunities for the planting or creation of additional wetland preservation areas.

- (2) The City may also initiate enforcement proceedings against any violator of this Chapter before the Code Enforcement Board, which may order the replacement of wetlands unlawfully removed and the replacement of wetlands which do not survive for one (1) year after replacement. If the replacement is not made within the time provided for in the order issued by the Code Enforcement Board, the Board may impose the maximum fine per day for any area of a wetland unlawfully altered or destroyed until the replacement is made.
- (3) In addition to 33-**.**(A) and(B), any person who knowingly or intentionally alters, removes, destroys or kills any portion of a wetland without first obtaining a permit as provided in this Chapter, shall be guilty of a misdemeanor punishable by a fine of up to five hundred dollars (\$500.00) and /or by imprisonment for up to sixty (60) days for each unit unlawfully removed.
- (4) No further permits for the subject property or development shall be issued except as specifically authorized by the City Manager or his designated representative until such violations have been corrected and a restoration plan has been accepted by the City.

[29B-15]

33-**.15 Appeals

The City Manager shall hear and decide appeals where it is alleged

there is an error in any permitting, order, requirement, decision or determination made by the Building Department in the enforcement of this Part. [29B-17]

C I T Y O F D E L A N D

List of

A P P R O V E D P L A N T S O F
W E T L A N D S P E C I E S

*Attached to Mr. McMahon
letter of 3/12/91*

February 1991

CITY OF DELAND
LIST OF APPROVED PLANTS OF
WETLAND SPECIES

GRASS:

| <u>COMMON NAME</u> | <u>SCIENTIFIC NAME</u> |
|--------------------|------------------------|
| Knot-grass | Panicum hemitomon |
| Maidencane | Panicum hemitomon |
| Saltgrass | Distichlis spicata |
| Seashore Dropseed | Sporobolus virginicus |

HERBACEOUS/GROUNDCOVER:

| <u>COMMON NAME</u> | <u>SCIENTIFIC NAME</u> |
|------------------------------|------------------------|
| Annual Wild Rice | Zizania aquatica |
| Arrowhead | Sagittaria lancifolia |
| Arrowhead, Dwarf | Sagittaria subulata |
| Arrowroot | Thalia geniculata |
| Babytears | Micranthemum umbrosum |
| Bladderwort | Utricularia spp. |
| Blue Flag | Iris hexagona |
| Bogmoss | Mayaca fluviatilis |
| Bog Button | Lachnocaulon spp. |
| Bulrush, Common Three-square | Scirpus americanus |
| Bulrush, Giant | Scirpus validus |
| Bulrush, Southern | Scirpus californicus |

HERBACEOUS/GROUNDCOVER: (Continued)

| <u>COMMON NAME</u> | <u>SCIENTIFIC NAME</u> |
|----------------------|------------------------|
| Bulrush, Woolgrass | Scirpus cyperinus |
| Bur-marigold | Bidens laevis |
| Cabomba | Cabomba caroliniana |
| Canna Lily | Canna generalis |
| Canna, Yellow | Canna flaccida |
| Cardinal-flower | Lobelia cardinalis |
| Cattail | Typha angustifolia |
| Coontails | Ceratophyllum spp. |
| Cordgrass | Spartina alterniflora |
| Cordgrass | Spartina bakeri |
| Eelgrass | Vallisneria americana |
| Fern, Chain | Woodwardia spp. |
| Fern, Cinnamon | Osmunda cinnamomea |
| Fern, Florida Shield | Dryopteris ludoviciana |
| Fern, Leather | Acrostichum spp. |
| Fern, Royal | Asmunda regalis |
| Fern, Shield | Thelypteris spp. |
| Fern, Swamp | Blechnum serrulatum |
| Frog's Bit | Limnobium spongia |
| Glassworts | Salicornia spp. |
| Golden Club | Orontium aguaticum |

HERBACEOUS/GROUNDCOVER: (Continued)

| <u>COMMON NAME</u> | <u>SCIENTIFIC NAME</u> |
|-------------------------|---------------------------|
| Horned Beak-rush | Rhynchospora corniculata |
| Lizard's Tail | Saururus cernuus |
| Marsh Elder | Iva spp. |
| Meadow Beauties | Rhexia spp. |
| Musk Grass | Chara spp. |
| Pickerelweeds | Pontederia spp. |
| Pitcher Plant | Sarracenia spp. |
| Pondweed, Illinois | Potamogeton illinoensis |
| Pondweed, Variable Leaf | Potamogeton diversifolius |
| Red Root | Lachnanthes caroliniana |
| Rush, Black | Juncus roemerianus |
| Rush, Fuierna | Fuirena spirpoidea |
| Rush, Soft | Juncus effusus |
| Saltwort | Batis maritima |
| Saw Grass | Cladium jamicense |
| Sea Purslane | Sesuvium maritimum |
| Sea-daisy | Borrichia frutenscens |
| Sedges | Carex spp. |
| Sedge, Flat | Cyperus odoratus |
| Sedge, Umbrella | Cyperus articulatus |
| Smartweed | Polygonum spp. |

HERBACEOUS/GROUNDCOVER: (Continued)

| <u>COMMON NAME</u> | <u>SCIENTIFIC NAME</u> |
|-------------------------|------------------------|
| Spiderlilies | Hymenocallis spp. |
| Spikerushes | Eleocharis spp. |
| Spoon Flowers | Peltandra spp. |
| Stonewort | Nitella Spp. |
| Strapleaf Sage | Sagittaira kuisiana |
| Swamp Lily | Crinum americanum |
| Turtlegrass | Thalassia testudinum |
| Umbrella Grass | Fuirena squarrosa |
| Water Hyssops | Bacopa spp. |
| Water Milfoils | Myiophyllum spp. |
| Water Naiads | Najas spp. |
| Water Willow | Justicia Ovata |
| Waterlily, Lotus | Nelumbo spp. |
| Waterlily, Spatterdock | Nuphar spp. |
| Waterlily, Yellow | Nymphaea nexicana |
| Waterlily, Fragrant | Nymphaea odorata |
| Waterlily, Water Shield | Brasenia schreberi |
| White Tops | Dichromena spp. |
| Yellow-eyed-grasses | Xyris spp. |

PALMS:

| <u>COMMON NAME</u> | <u>SCIENTIFIC NAME</u> |
|--------------------|------------------------|
| Palm, Cabbage | Sabal palmetto |
| Palm, Needle | Rhapidophyllum hystrix |
| Palmetto, Dwarf | Sabal minor |

SHRUBS:

| <u>COMMON NAME</u> | <u>SCIENTIFIC NAME</u> |
|--------------------|---------------------------|
| Black Mangrove | Avicennia germainans |
| Buttonbush | Cephalanthus occidentalis |
| False-willow | Baccharis angustifolia |
| Fetterbush | Lyonia lucida |
| St. John's Wort | Hypericum spp. |
| Swamp Hibiscus | Hibiscus grandiflorus |
| Swamp Rose | Rosa palustris |
| Virginia Willow | Itea virginica |
| Wax Myrtle | Myrica cerifera |

TREES:

| <u>COMMON NAME</u> | <u>SCIENTIFIC NAME</u> |
|--------------------|----------------------------|
| Ashes | Fraxinus spp. |
| Bay, Loblolly | Gordonia lasianthus |
| Bay, Red | Persea borbonia |
| Bay, Swamp | Persea palutris |
| Bay, Sweet | Magnolia virginiana |
| Blackgum | Nyssa sylvatica v. biflora |
| Cypress, Bald | Taxodium distichum |
| Cypress, Pond | Taxodium ascendens |
| Dogwood, Swamp | Cornus foemina |
| Elms | Ulmus spp. |
| Hackberry | Celtis laevigata |

TREES: (Continued)

| <u>COMMON NAME</u> | <u>SCIENTIFIC NAME</u> |
|--------------------|-------------------------|
| Holly, American | Ilex opaca |
| Holly, Dahoon | Ilex cassine |
| Ironwood | Carpinus carolineana |
| Oak, Water | Quercus nigra |
| Pignut Hickory | Carya glabra |
| Pine, Pond | Pinus serotina |
| Red Maple | Acer rubrum |
| River Birch | Betula Nigra |
| Sweetgum | Liquidambar styraciflua |
| Sycamore | Platanus occidentalis |
| Tulip Tree | Liriodendron tulipifera |
| Willows | Salix spp. |

STAFF\WETLANDS

M E M O R A N D U M
P L A N N I N G D E P A R T M E N T
- - - - -

March 4, 1991

FILE: P-91-48

TO: Astrid de Parry, City Attorney
FROM: Gary Schindler, AICP, Planning Director *GS*
SUBJECT: Marsh Point Business Park PD Environmental Review

I am transmitting a copy of Mr. Michael McMahan's March 1, 1991 letter to you concerning the City's decision to utilize the services of Mr. Joe Young to conduct the environmental review for the Marsh Point Business Park PD. It is my understanding that, as long as Mr. Young did not have access to privileged information associated with litigation involving this property, there are no legal reasons why the City cannot use Mr. Young's services. Is my understanding correct?

There are several factors in favor of utilizing Mr. Young. These are as follows:

1. He is familiar with the above referenced site and wetland area. This familiarity should save time in reviewing the proposed plans and working with the Department of Environmental Regulations (DER).
2. Both in the past and currently, Mr. Young has performed work for the City. Based upon the previous work, the City has an established relationship with Mr. Young. No such relationship exists with other environmentalists.
3. Based upon Mr. Young's previous work, we believe that Mr. Young is extremely knowledgeable in the area of environmental planning and mitigation and that his experience, in both the public and private sector, makes his expertise in such matters invaluable.

Please review Mr. McMahan's letter and provide me with your comments concerning this matter.

Attachment

DMR DAVIS, McMAHAN, ROGERS & ASSOCIATES, INC.

Civil Engineers, Land Planning, Environmental Engineering,
Stormwater, Feasibility Studies

1 March 1991

Mr. Gary Schindler, AICP
Planning Dept. Director
City of DeLand
P.O. Drawer 449
DeLand, Florida 32721

RECEIVED
MAR - 4 1991
PLANNING DEPARTMENT

RE: MARSH POINT BUSINESS PARK
ENVIRONMENTAL REVIEW

Dear Mr. Schindler:

In accordance with your request, we have forwarded two additional copies of the Marsh Point Business Park plans for submittal to your review consultants. As we understand, Transportation Consulting Group, Inc. will review the transportation element of the report. We also understand that you are sending plans to Joe Young for review of the environmental aspects of the project.

We caution the City and Joe Young that there is a potential conflict of interest in that Mr. Young was hired by H.L. Watson to render an opinion regarding the Marsh Point Business Park. We do not feel it is appropriate for Mr. Young to render an opinion on the behalf of the City regarding his own statements concerning Marsh Point Business Park.

We respectfully request that the City obtain another consultant for review of any environmental issues associated with this project.

Your attention in these matters would be appreciated.

Sincerely,
Davis, McMahan, Rogers & Assoc., Inc.



Michael T. McMahan, P.E.
Vice President

MTM/crv

cc: Joe Young, Ecoshores, Inc.
H. L. Watson
James R. Clayton

CITY OF DELAND

DELAND, FLORIDA 32721



March 1, 1991

POST OFFICE DRAWER 449
TELEPHONE: (904) 736-3900
FAX: (904) 736-9819

Joe Young
Biological Consulting Services
290 Sunset Drive
New Smyrna Beach, FL 32168

Re: Environmental review of the proposed Marsh Point Business Park Planned Development.

Dear Joe,

I am transmitting to you the proposed plans for the above referenced project. The applicant has requested both PD development plan review and preliminary plat review. The preliminary plat review will involve fully engineered plans and can result in the City allowing construction of the streets, utilities, and other infrastructure. Therefore, we need to address all requirements which will involve the wetlands, the 100-year floodplain, endangered flora and fauna, and any other environmental concerns. Please review the 100-year flood area which my staff has marked on the copy of the attached map. This information was taken from the flood zones maps.

As we discussed, the wetlands appear to be under the jurisdiction of DER. I need to know what mitigation requirements are going to be involved to permit development of the proposed Phase 2. At which point will the mitigation plan be required? Also, will there need to be any specific requirements in place to protect the wetlands during the construction of Phase 1? If so, please address these requirements.

Joe, I'm looking forward to working with you again. If you have any questions concerning this matter, please feel free to contact me at (904) 736-3900, ext. 247.

Sincerely,

Gary Schindler, AICP
Planning Director

GMS:emm

subdiv/mpenvir

CITY OF DELAND

DELAND, FLORIDA 32721



POST OFFICE DRAWER 449
TELEPHONE: (904) 736-3900
FAX: (904) 736-9819

March 1, 1991

Turgut Dervish
Traffic Planning and Design
385 Whooping Loop, Suite 1333
Altamonte Springs, FL 32701

Re: Traffic impact analysis for Marsh Point Business Park.

Dear Turgut,

I am transmitting to you the information that I have regarding the Marsh Point Business Park. The location is on the northwest corner of Marsh Road and US 92. Marsh Road is designated as a County Road, Urban Collector/Minor Rural Collector. Marsh Road runs only north of US 92 and is the first intersection on US 92, west of the Kepler Road intersection. I would like for you to make the determination if a traffic impact study should be required.

They are proposing a variety of possible land uses, all of which I do not believe are realistic. By the very nature of the design of the development, retail land uses which need exposure are not going to be attracted to this location. Therefore, I intend to prohibit those types of land uses. This facility will be most attractive to light industrial, wholesale operations, and those retail, service, and office uses which do not need a high degree of exposure. However, I don't know what land uses the Commission will approve.

Currently, the analysis of total number of trips is based 5.46 trip ends per 1,000 gross square feet of floor area for industrial land uses. I cannot find this in the ITE 4th Edition. Please prepare your analysis, based upon at least three conditions. First, best case involving only warehousing, wholesaling, and light industrial land uses. Second, involving wholesaling, warehousing, light industrial, and retail, service, and office land uses which would be attracted to this type of business environment. Third, worst case involving a full range of light industrial, wholesale, warehousing and all uses permitted in the C-1, C-2, and C-3 zoning districts.

As I stated in our telephone conversation, most of the roadways in the area are operating at either LOS A or B. The following information is what we got from Volusia County:

Turgut Dervish
March 1, 1991
Page 2

1. Kepler, from US 92 to SR 44 - LOS A
2. Garfield, from US 92 to SR 44 - LOS B
3. Amelia, from US 92 to Plymouth - LOS C
from Plymouth to Minnesota - D
at Minnesota - LOS E
from Minnesota to Ohio - LOS F
from Ohio to SR 44 - LOS A
4. SR 11, N. of US 17 - LOS B
5. US 17, N. of US 92 - LOS A
6. US 92, US 17 to Kepler - LOS A
Kepler to Tomoka Farms Rd. - LOS A
7. US 17/92, from Plymouth to Kentucky - LOS B
from Kentucky to US 92 - NB = LOS B, SB = LOS C
8. Marsh Rd., N. of US 92 - LOS A

If you have any questions concerning this matter or if you need additional information, please feel free to contact me at (904) 736-3900, ext. 247.

Sincerely,


Gary Schindler, AICP
Planning Director

GMS:emm

Enclosure

subdiv/mptraff

DMR DAVIS, McMAHAN, ROGERS & ASSOCIATES, INC.

Civil Engineers, Land Planning, Environmental Engineering,
Stormwater, Feasibility Studies

28 February 1991

RECEIVED
MAR - 1 1991
PLANNING DEPARTMENT

Mr. Gary Schindler, A.I.C.P.
Planning Department Director
City of DeLand
P.O. Drawer 449
DeLand, Florida 32724

RE: MARSH POINT BUSINESS PARK
DEVELOPMENT PLAN REPORT
TRANSPORTATION ELEMENT

Dear Gary:

This letter is being written in response to your questions asked during our telephone conversation of Tuesday, 26 February 1991, regarding the subject project.

The ITE trip generation rates utilized in our development plan report were obtained from the third edition published in 1982 and revised 1985. We have subsequently obtained the trip generation rates from the fourth edition published in 1987 and have revised our computation as follows:

From rates for General Light Industrial and Industrial Park
Categories-

$$\begin{aligned} \text{Average Daily Traffic} &= 30 \text{ Lots} \times \frac{4500\text{FT}^2}{\text{Lot}} \times \frac{6.97 \text{ Trips}}{1000\text{FT}^2/\text{Day}} \\ &= 941 \text{ Vehicle Trips/Day} \end{aligned}$$

This figure still falls short of the threshold identified in the City's Comprehensive Land Use Plan as minimum for requiring a traffic impact analysis.

In response to the questions regarding the multiple and varied uses allowed in this business park we refer you to page 2 of 9 of the plans wherein it is described that certain uses are not permitted. We have also contacted Mr. Watson regarding your concerns and he has indicated that no medical clinics, government offices, discount stores or retail centers will be allowed. As mentioned in Section B "Purpose and Intent of Report", the land uses within the park would be restricted to light industrial and commercial entities. In keeping with the concept and character of the business park we do not feel that civic centers, retail centers, medical centers, government offices and similar entities are appropriate. Specific land uses we had envisioned included general light industrial, manufacturing, warehouses, wholesale markets, similar to those located along Old Daytona Road.

We also offer the following items for your consideration: This project is being developed in two phases. Should traffic generated by construction of Phase I exceed our projections, then appropriate measures could be taken during any further permitting. Building permits will still have to be approved by the City of DeLand for each lot wherein land uses and the appropriate traffic generator could be screened at the time of issuance of the building permit. Secondly, all collector and arterial roadways within one mile are operating at a level of service (L.O.S.) "A". This development would have to generate more than 10,000 vehicle trips per day to change the level of service of Marsh Road, US 92, or Kepler Road to level of service "C". As much as we would like to think that 10,000 customers would visit this business park every day, we realistically feel that between 300 to 400 people will visit the park at full development.

We also would like to comment that although the International Transportation Engineers (ITE) trip generation guide is a wonderful tool in projecting traffic, it is a result of averaging (United States & Canada) of all locations throughout North America for similar land uses without regard to demographics. It is sometime misused by considering area demographics of, say, New York City equal to area demographics of Paisley, Florida. The greater DeLand Metropolitan area contains approximately 40,000 people (see City of DeLand's Comprehensive Land Use Plan pp 1-32 "Totals for study area"). We feel that it would be a gross misjudgment to assume that one fourth of all people living in the DeLand area would come to this business park every day thereby changing the roadway L.O.S. to "C".

We are confident that this project will not adversely impact the level of service of any roads in the DeLand area. We hope the information contained herein is sufficient to ease your concerns.

Should you wish to discuss these matters in further detail, we are available.

Sincerely,
Davis, McMahan, Rogers & Assoc., Inc.



Michael T. McMahan, P.E.
Vice President

MTM/crv

cc: H. L. Watson
James R. Clayton

CITY OF DELAND
APPLICATION FOR CHANGE OF ZONE

RECEIVED
FEB 22 1991

PLANNING DEPARTMENT

1. APPLICANT:-
NAME: H. L. Watson, Watson Development Company
ADDRESS: 1171 Glenwood Trail
DeLand, Florida 32720

TELEPHONE NO.: 904-736-0536

APPLICANT'S SIGNATURE: *Jan R. [Signature]*, *H. L. Watson*
ATTORNEY FOR APPLICANT

2. OWNER:-
NAME: Ms. Virginia Jacobs
ADDRESS: P.O. Box 476
DeLand, Florida 32721

TELEPHONE NO.: _____

OWNER'S SIGNATURE: *Jan R. [Signature]* ATTORNEY FOR OWNER
(Applicant may sign for owner with proper authorization)

3. SUBJECT PROPERTY:
ADDRESSOR GENERAL LOCATION: Marsh Road, North of US 92, South of Old
Daytona Road East of Little Haw Creek,
West of Marsh Road

4. LEGAL DESCRIPTION AND ZONING DESIGNATION OF EACH CHANGE:
PARCEL A: See Attached Legal Description

5. EXISTING LAND USE: Vacant Land - From City of DeLand Comprehensive
Land Use Plan

6. CITY LAND USE: Industrial/Warehouse

7. EXISTING ZONING: PD

8. REQUESTED ZONING: PD

9. ADJACENT COUNTY ZONING WHERE APPLICABLE:

NORTH: R-4

SOUTH: R-4

EAST: R-4

WEST: _____

10. REASON FOR REQUESTED CHANGE: Reinstatement of Proposed PD

FEE SCHEDULE

REZONING APPLICATION: \$325 plus \$5.00 per acre up to 50 acres (nonrefundable) Minimum charge \$330.

APPLICATION RECEIVED BY: _____ DATE: _____

FEE DUE PAID: _____ DATE: _____

APPL-2

CITY OF DELA. FINANCE DEPARTMENT
P.O. Drawer 449 Phone 904-736-3900
DeLand, Florida 32721-0449

64929

Date 2/25 19 91

RECEIVED OF Planning

For Watson Development - 291-02-22 435.00 Dollars,

re-zoning fee

Checks Cash _____ By C. Cucher
City Cashier

Review as
3/2/91



CITY OF DELAND FIRE DEPARTMENT

201 WEST HOWRY STREET • DELAND, FLORIDA 32720 • PHONE 734-3499
734-3495

SITE PLAN REVIEW CHECK LIST

Project Name: MARSH POINT BUSINESS PARK

Fire Protection Requirements

- A. Hydrant spacing acceptable No
- B. Adequate flow provided SEE COMMENT
- C. Adequate access for fire fighting equipment provided OK
- D. Other:

A) SPACING SHALL BE AT A MAXIMUM OF
300 FT. BETWEEN HYDRANTS (N.F.P.A 1141)

B) FLOW SHALL BE A ^{MINIMUM} 1,000 G.P.M. WITH A
RESIDUAL PRESSURE OF 20 P.S.I

Wm P. Williams
Reviewer

2-25-91
Date

ALL FIRE HYDRANT LOCATIONS SHALL BE MARKED USING AN APPROVED ROADWAY REFLECTOR, BLUE IN COLOR, PLACED IN THE CENTER OF THE DRIVING LANE CLOSEST TO THE HYDRANT.

NOTE: ANY BUILDINGS THAT ARE SPRINKLERED WILL REQUIRE A FIRE HYDRANT LOCATED WITHIN 150 FT. OF THE F.D. CONNECTION FOR THE SPRINKLER SYSTEM.

RECOMMENDATION: WATER LINES SHOULD BE 8 INCH

**SITE PLAN AND SUBDIVISION
ACTION REQUEST FORM**

From: Planning Director

Date: February 22, 1991

To: Public Service Engineer
Chief Building Official
Assistant Utility Director
Utility Engineer
Fire Marshal
Parks Superintendent
Technical Review Secretary
Other.....

Site Plan - Subdivision

Z-91-02-01, Rezoning Development Plan Review for Marsh Point Business Park, PSB-91-02, Preliminary Plat Review for Marsh Point Business Park Subdivision, and FSB-91-02, Final Plat Review for Marsh Point Business Park Subdivision. I am transmitting to you the proposed development plan document and maps. This document has been submitted to meet the requirements of the PD rezoning development plan document, the preliminary plat/engineering plans, and final plat.

At the Technical Review Committee Meeting of Thursday, February 28, 1991, at 2:00 PM, we will review this site plan. Please review and provide me with your written comments at the above referenced meeting.

CLAYTON & TEAL, P.A.

ATTORNEYS AT LAW
114 WEST RICH AVENUE
DELAND, FLORIDA 32720

227 SOUTH VOLUSIA AVENUE
ORANGE CITY, FLORIDA 32763

PLEASE REPLY TO DELAND OFFICE

COPY

JAMES R. CLAYTON
MICHAEL S. TEAL
GARY S. WRIGHT
HOWARD S. WARNER - OF COUNSEL

DELAND (904) 738-3400
DAYTONA (904) 257-1744
ORANGE CITY (904) 775-3210
FAX (904) 738-4300

RECEIVED
FEB 22 1991

February 22, 1991

PLANNING DEPARTMENT

Astrid DeParry
DeLand City Attorney
120 S. Florida Avenue
DeLand, Florida 32720

HAND DELIVERY

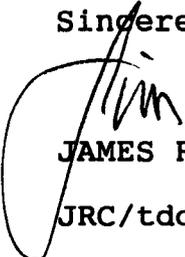
Re: Virginia Jacobs/Harold Watson/Marsh Point

Dear Astrid:

In accordance with our telephone conversation of this afternoon, please accept this letter as verification that as Attorney-At-Law for Mrs. Virginia Jacobs, she authorizes Harold Watson to file Application For Change of Zoning on Mrs. Jacobs' property located at/near the intersection of Marsh Road and Highway 92. As I indicated to you during our telephone conversation, Mrs. Jacobs is currently on vacation, but immediately upon her return I will have her provide written authorization for Mr. Watson's request.

Thank you for your courtesy and cooperation in this regard.

Sincerely yours,


JAMES R. CLAYTON, ESQ.

JRC/tdd

MINIMUM TREE COVERAGE REQUIREMENT WORKSHEET

Steps

1. Determine the total # of inches DBH of trees required for the site. (Acreage x 43,560 sq. ft. / 2,500 = # of trees required; # of trees required x 6" = total # DBH of trees required for the site)
2. Calculate credit of the actual # of inches DBH of specimen trees to be retained on the site.
3. Calculate credit for non-specimen trees to be retained on the site. (Credit is either actual inches DBH or assume 9" DBH for each tree.)
4. Calculate deficiency.
5. Standards of review.
6. Grant permit, recommend variance, or deny permit

-
1. 22.07 # acres x 43,560 / 2,500 = 384 # required trees
 2. 384 # required trees x 6" = 2307 # inches DBH required for site.
 3. # inches DBH for specimen trees retained on site = 865.
 4. # inches DBH for non-specimen trees retained on site = 262.
 5. Determine total credit by adding total of item 3 and 4 to determine total credit. Credit = 1127 # inches DBH.
 6. 2307 # inches DBH of trees required for site - 1127 total # inches DBH credit = 1180 # inches DBH deficiency for the site. [786 - 1½ trees]
 * Recommend surveying Pines & Waxed Myrtles to obtain credit for existing trees.

NOTE: Information Copy
 A copy has been placed on
 FSB-91-02

SPECIMEN TREE PROTECTION REQUIREMENT WORKSHEET

1. Count the # of specimen trees on the site.
2. Determine the minimum # of specimen trees required to be retained on the site. Refer to Section 29A-8. (# of specimen trees per acre determines minimum number of specimen trees required to be retained per acre; minimum # of specimen trees required to be retained per acre x the acreage = minimum # of specimen trees required to be retained on the site)
3. Calculate the deficiency. (minimum # of specimen trees required to be retained on the site - the actual number of specimen trees proposed to be retained on the site = the deficiency)
4. Determine the DBH of specimen trees to be removed and multiply by .5 to determine the total inches DBH of required replacement trees.
5. Calculate total of inches DBH of replacement trees.
6. Apply review standards.
7. Grant permit, recommend variance, or deny permit

.....

1. # specimen trees on site = 60
2. # of specimen trees per acre 2.7 = 80% # of specimen trees required to be retained per acre (Refer to Section 29A-8)
3. 80% of minimum specimen trees required to be retained per acre x 60 acreage = 48 total # of specimen trees required to be retained on site.
4. # of specimen trees proposed to be retained = 59
5. 48 # specimen trees required to be retained - 59 # specimen trees proposed to be retained = - deficiency of # of specimen trees
6. inches DBH of specimen trees to be removed = 12 x .5 = 6 inches (DBH) of specimen trees required for replacement

AREA TREE PROTECTION REQUIREMENTS

1. Determine the square footage of the site required for tree protection. (Acreage of site x 43,560 = square footage of the site x .15 = square footage of site required for tree protection.)
2. Determine the square footage of all area within the site proposed for tree protection.
3. Calculate deficiency.
4. Apply review standards.
5. Grant permit, recommend variance, or deny permit.

.....

..

1. $\frac{22.07 \text{ acreage} \times 43,560 = 961369.2}{\text{age of site} \times .15 = 144205}$ square foot-
required for tree protection area of site
2. $\frac{356\ 546}{\text{tree protection}} =$ square footage of site proposed for
3. $\frac{144\ 205}{\text{protection} - 356\ 546}$ square footage required for tree
for tree protection = $\frac{\quad}{\quad}$ square footage proposed
deficiency of tree protection area = $\frac{0}{\quad}$ square footage of

tpowkst

CITY OF DELAND
PLANNING DEPARTMENT
VERIFICATION OF PROPERTY OWNERSHIP

Parcel # of Subject Property: 6026 -01-00-0110

~~0120~~
~~0120~~ 0250
~~0130~~ 0260

} These do not
appear to be
correct.

Address of Subject Property:

..... Marsh Road DeLand, Florida

As of ... ~~21 February 1991~~ 11-4-91, Volusia County records show that
..... ~~Virginia Jacobs~~ Virginia M. Jacobs is the owner of
the above referenced property.

Signed *Shanda L. [Signature]*

Position *Assessment Records Spec. II*

Notary Public, State of Florida *[Signature]* 11-04-91 X

My Commission Expires X

X These should be signed and notarized by V.C. appraiser's
office.

**CITY OF DELAND
PLANNING DEPARTMENT
VERIFICATION OF PROPERTY OWNERSHIP**

Parcel # of Subject Property: 6026 -01-00-0110

0160
0150 0250
0140 0260
0130

Address of Subject Property:

..... Marsh Road DeLand, Florida

As of ... 21 February 1991, Volusia County records show that
..... Virginia Jacobs is the owner of
the above referenced property.

Signed 

Position

Notary Public, State of Florida

My Commission Expires

Legal Description

DESCRIPTION (WRITTEN)

ALL OF LOTS 11, 15 AND 16 AND THAT PART OF LOTS 13, 14, 25 AND 26, LYING WESTERLY OF MARSH ROAD AS NOW LAID OUT, BLUE LAKE CELERY COMPANY SUBDIVISION, ACCORDING TO THE PLAT RECORDED IN MAP BOOK 4, PAGE 171, PUBLIC RECORDS OF VOLUSIA COUNTY.

DESCRIPTION FOR ANNEXATION (WRITTEN)

ALL OF LOTS 11, 15 AND 16 AND THAT PART OF LOTS 13, 14, 25 AND 26, LYING WESTERLY OF MARSH ROAD AS NOW LAID OUT, AND THE SOUTH 1/2 OF A 40 FOOT WIDE UNNAMED ROAD LYING NORTH OF AND ADJACENT TO SAID LOTS 14 AND 15 AND WESTERLY OF MARSH ROAD AND THE WEST 1/2 OF A 40 FOOT WIDE UNNAMED ROAD LYING EAST OF AND ADJACENT TO SAID LOTS 11 AND 16, AND SOUTHERLY OF OLD DAYTONA ROAD, AS SHOWN ON THE PLAT OF BLUE LAKE CELERY COMPANY SUBDIVISION, ACCORDING TO THE PLAT RECORDED IN MAP BOOK 4, PAGE 171, PUBLIC RECORDS OF VOLUSIA COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE CENTERLINES OF OLD DAYTONA ROAD AND MARSH ROAD, SAID INTERSECTION BEING MARKED BY A CROSS IN THE OLD BRICK ROAD; RUN THENCE S 43°17'32" E, ALONG THE CENTERLINE OF MARSH ROAD AS NOW LAID OUT, A DISTANCE OF 492.70 FEET TO IT'S INTERSECTION WITH THE EASTERLY EXTENSION OF THE SOUTH LINE OF LOT 1, FIRST ADDITION TO DeLAND HIGHLANDS, ACCORDING TO THE PLAT RECORDED IN MAP BOOK 19, PAGE 23, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE S 89°46'28" W, ALONG SAID SOUTH LINE, A DISTANCE OF 41.06 FEET TO THE SOUTHEAST CORNER OF SAID LOT 1 AND THE POINT OF BEGINNING; THENCE S 43°17'32" E, AND PARALLEL WITH THE CENTERLINE OF MARSH ROAD, AS NOW LAID OUT AND OCCUPIED, A DISTANCE OF 1278.45 FEET TO THE POINT OF CURVATURE OF A CURVE WHICH IS CONCAVE WESTERLY, HAVING A RADIUS OF 263.52 FEET AND A CENTRAL ANGLE OF 43°22'09"; THENCE ALONG THE ARC OF SAID CURVE, A DISTANCE OF 199.47 FEET TO THE POINT OF TANGENCY THEREOF; THENCE S 00°04'38" W, AND PARALLEL WITH THE AFORESAID CENTERLINE, A DISTANCE OF 166.50 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 92; THENCE S 63°13'48" W, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 75.86 FEET TO A POINT ON THE SOUTH LINE OF LOT 26, AFORESAID; THENCE S 89°22'08" W, ALONG SAID SOUTH LINE, A DISTANCE OF 459.24 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF THAT CERTAIN CANAL AS SHOWN ON THE AFORESAID PLAT OF BLUE LAKE CELERY COMPANY SUBDIVISION; THENCE N 40°13'53" W, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 1285.18 FEET; THENCE N 29°41'16" W, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 572.41 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF OLD DAYTONA ROAD; THENCE N 66°41'26" E, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 364.39 FEET TO THE NORTHWEST CORNER OF LOT 4, FIRST ADDITION TO DeLAND HIGHLANDS, AFORESAID; THENCE S 00°42'00" E, ALONG THE WEST LINE OF LOTS 2, 3 AND 4, FIRST ADDITION TO DeLAND HIGHLANDS, A DISTANCE OF 306.72 FEET TO THE SOUTHWEST CORNER OF SAID LOT 2; THENCE N 89°46'28" E, ALONG THE SOUTH LINE OF LOTS 1 AND 2, AFORESAID, A DISTANCE OF 392.50 FEET TO THE POINT OF BEGINNING; SAID PARCEL CONTAINING 23.02 ACRES, MORE OR LESS; SUBJECT TO RIGHT-OF-WAYS AND EASEMENTS OF RECORD.

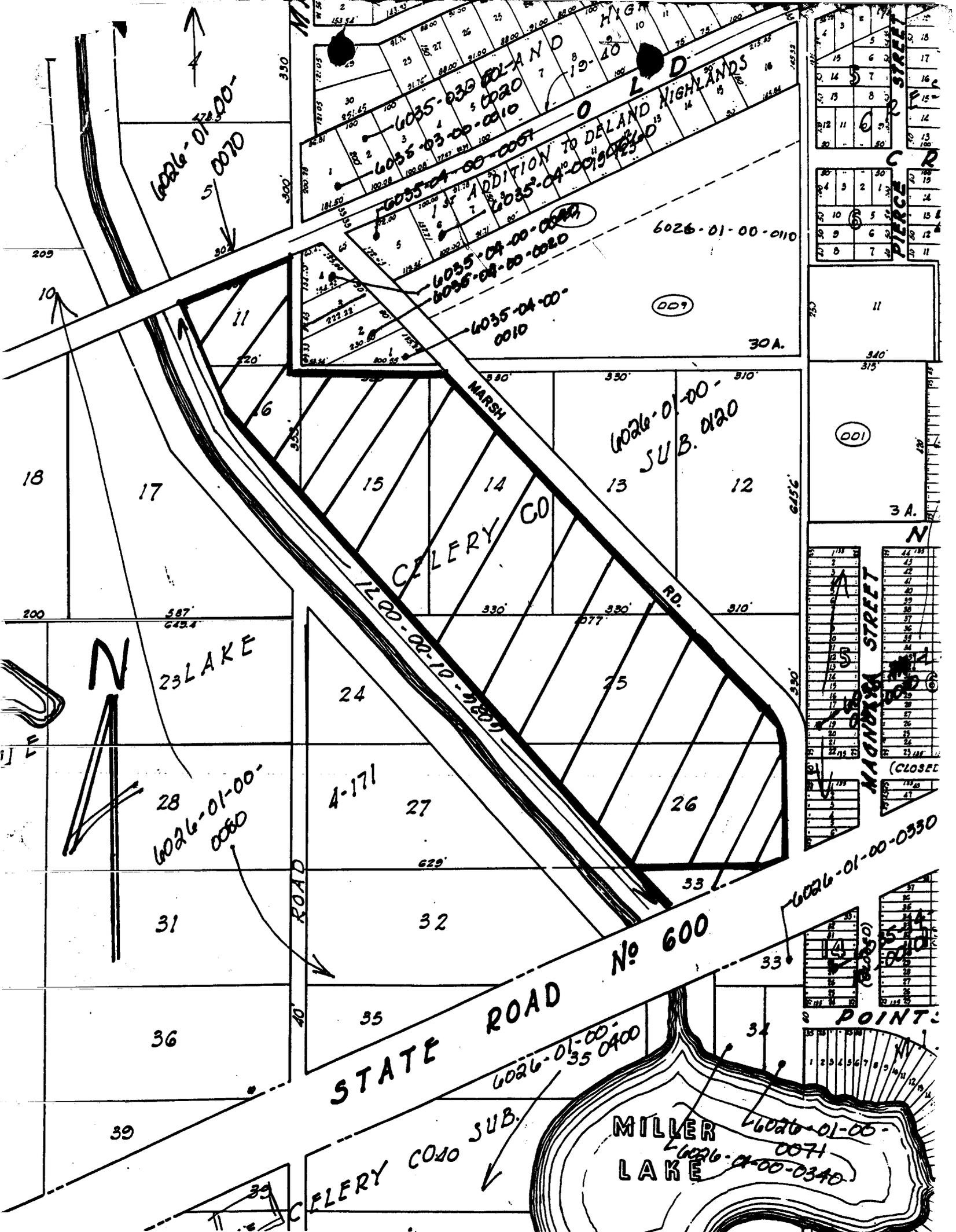
DESCRIPTION FOR ROAD VACATION (WRITTEN)

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BEARING STRUCTURE SHOWN HEREON IS BASED ON THE CENTERLINE OF OLD DAYTONA ROAD BEING N 66°41'26" E, ASSUMED DATUM.

GENERAL NOTES:

- 1) NO RECORD RIGHT-OF-WAY FOR MARSH ROAD WAS PROVIDED FOR THIS SURVEY.
- 2) THIS SURVEY WAS PERFORMED WITHOUT BENEFIT OF A TITLE REPORT.
- 3) THERE MAY BE ADDITIONAL RESTRICTIONS NOT SHOWN ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.
- 4) THE CANAL RIGHT-OF-WAY AS SHOWN HEREON IS BASED ON THE FIELD LOCATION OF THE EXISTING CANAL.



6026-01-00-0070

ADDITION TO DELAND HIGHLANDS
6035-04-00-0001
6035-04-00-0002
6035-04-00-0003
6035-04-00-0004
6035-04-00-0005
6035-04-00-0006
6035-04-00-0007
6035-04-00-0008
6035-04-00-0009
6035-04-00-0010

6026-01-00-0110
6026-01-00-0120
6026-01-00-0130
6026-01-00-0140
6026-01-00-0150
6026-01-00-0160
6026-01-00-0170
6026-01-00-0180
6026-01-00-0190
6026-01-00-0200

LAKE

6026-01-00-0080

4-171

STATE ROAD No 600

6026-01-00-0040

MILLER LAKE
6026-01-00-0071
6026-01-00-0340

| | | | | | | | | | | | | | | | | | | | |
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| 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 |

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|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|
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| 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 |

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| 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 |

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| 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 |

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| 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 |

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| 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 |

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| 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 |

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| 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 |

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| 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 |

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| 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 |

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| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 |

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| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 |

AVIGATIONAL EASEMENT

THIS INDENTURE is made this _____ day of _____, 1992, by and between _____ (hereinafter called "Grantor"), and the City of DeLand, a municipal corporation organized and existing under the laws of the State of Florida (hereinafter called "Grantee").

W I T N E S S E T H:

WHEREAS, Grantee is the owner and operator of the DeLand Municipal Airport located in Volusia County, Florida, and in close proximity to the land of Grantor as hereinafter described; and

WHEREAS, Grantee desires to obtain and preserve for the use and benefit of the general public a right of free and unobstructed flight for aircraft landing upon, taking off from or maneuvering about the Airport;

NOW, THEREFORE, in consideration of the sum of ten dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby grant, bargain, sell and convey to Grantee and its successors and assigns, for the use and benefit of the general public, an easement and right-of-way for the free and unobstructed passage of aircraft in and through the airspace which lies above an elevation of one hundred (100) feet above mean sea level (as determined by using the National Geodetic Vertical Datum of 1929), over and across Grantor's lands which are described as follows:

SEE EXHIBIT "A" ATTACHED HERETO.

Further, Grantor does hereby grant and convey to Grantee and its successors and assigns, a continuing right to keep the airspace above said elevation free and clear from any and all fences, crops, trees, poles, buildings and other obstructions of whatsoever kind or nature which now extend or which may at any time in the future extend above said elevation, together with the right of ingress to, egress from, and passage over the land of Grantor described above for the purpose of effecting and maintaining such clearance and of removing any and all obstructions which now or may hereafter extend above said elevation. Grantor further covenants that Grantor shall not hereafter construct, permit or suffer to remain upon said land any obstruction that extends above said elevation.

This Avigational Easement and all rights pertaining to it shall exist until the Airport is abandoned and is no longer used for airport purposes. This Avigational Easement shall be binding upon and shall inure to the benefit of the parties' heirs, successors and assigns.

EXECUTED this _____ day of _____, 1992.

WITNESSES:

GRANTOR:

Sign _____
Print _____

Sign _____
Print _____
Address: _____

Sign _____
Print _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 1992, by _____, who is personally known to me or who has produced _____ as identification and who did take an oath.

NOTARY PUBLIC

Sign _____
Print _____
State of Florida
at Large

My Commission Expires:



STEINMAN SURVEYING, INC.
professional land surveyors

DRAFT

**DESCRIPTION OF AVIGATION EASEMENT FOR THE CITY OF DeLAND
MARSH POINT BUSINESS PARK - PHASE ~~II~~ I**

January 26, 1993

Proj. Code 88074

All that part of Lots 13 thru 16, inclusive, and Lots 25 and 26, Blue Lake Celery Company Subdivision, as recorded in Map Book 4, Page 171, Public Records of Volusia County, Florida, described as follows: Commencing at a concrete monument at the southeast corner of said Lot 26, run thence $S89^{\circ}22'08''W$ along the south line thereof a distance of 556.24 feet to a point on the easterly right of way line of a canal; thence $N40^{\circ}13'53''W$ along said right of way line a distance of 681.38 feet to the Point of Beginning; thence continue $N40^{\circ}13'53''W$ along said right of way line a distance of 603.79 feet; thence $N29^{\circ}41'16''W$ along said right of way line a distance of 166.91 feet to a point on the northeast line of an avigation easement; thence $S69^{\circ}44'01''E$ along said line a distance of 969.81 feet; thence $S46^{\circ}42'28''W$ a distance of 258.86 feet; thence $N40^{\circ}13'53''W$ a distance of 90.00 feet; thence $S49^{\circ}46'07''W$ a distance of 249.64 feet to the Point of Beginning; containing 4.76 acres, more or less.

RECEIVED
JAN 26 1993
REGISTERED

EXHIBIT A

All of Lot 26 and that part of Lots 13, 14 and 25, Blue Lake Celery Company's Subdivision according to map in Map Book 4, Page 171, Public Records of Volusia County, Florida, described as follows:

Commence at the intersection of the centerlines of Old Daytona Road and Marsh Road; run thence South along the centerline of Marsh Road a distance 1163.14 feet thence Westerly a distance of 41.06 feet to a point which is 30 feet, as measured at right angles, westerly of the centerline of Marsh Road and the Point of Beginning. Thence Southerly, and parallel with the centerline of Marsh Road, 115.31 feet to the point of curvature of a curve which is concave westerly, along the arc of said curve a distance of 199.47 feet thence south and parallel with the aforesaid centerline, a distance of 166.50 feet to the Northerly right-of-way line of U.S. Highway 92, then Westerly along said right-of-way line a distance of 75.86 feet to a point on the south line of lot 26, thence Westerly along said south line a distance of 459.24 feet to a point on the easterly right-of-way line of that certain canal as shown on the plat of Blue Lake Celery Company's Subdivision, thence Northerly along said right-of-way line a distance of 681.39 feet, thence Easterly a distance of 249.64 feet, thence Southerly a distance of 90 feet, thence Easterly a distance of 315.87 feet to the Point of Beginning.

CITY OF DELAND

DELAND, FLORIDA 32721



POST OFFICE DRAWER 449
TELEPHONE: (904) 736-3900
FAX: (904) 736-9819

Status Report on Marsh Point Business Park

The City Commission approved the PD zoning on January 9, 1989 and a PD Development Order on January 21, 1992.

The time frame for Phase I of the development was three (3) years from approval, with Phase II development within the following two (2) years. It appears that this development plan has expired.

There is no final plat approval on this property. A preliminary plat for Phase I was approved by the City Commission on February 3, 1992. The City's Land Development Regulations state that failure to apply for final plat approval within one year of preliminary plat approval shall result in the revocation of the preliminary plat approval. Our records do not show an application for final plat approval.

The current land use and zoning of the property is Industrial (I) land use and Planned Development (PD) zoning.

| | | | |
|-------------------|--------------|---------|-----------------|
| Post-it® Fax Note | 7671 | Date | # of pages ▶ |
| To | Mike McPhail | From | Stacey Rothfuss |
| Co./Dept. | | Co. | Rothfuss |
| Phone # | | Phone # | 736-3900x247 |
| Fax # | | Fax # | |

cc: Jim McCroskey, Community Development Director
Z-91-02-01

Section 1. The City Commission has held a public hearing to confirm the initial zoning designation of the land described in Exhibit "A" and to approve the change of zoning from R-4, Urban Single Family Residential, 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 33-24 of the Code and the development of this property shall take place in accordance with that Section and in substantial compliance with the Development Plan Report and Maps submitted by the Applicant 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 Applicant 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 set forth in Section 5 below.

Section 5. The approved Development Plan for the Marsh Point Business Park is set forth below:

(a) Development Concept: The Applicant proposes to construct a business park consisting of approximately thirty (30) one-half (1/2) acre lots to be used for wholesale distribution, storage and limited light manufacturing purposes. The Applicant shall maintain unified ownership of the property until a final plat has been approved for areas to be subdivided. No lots or parcels of land shall be sold until a final plat encompassing the property to be conveyed has been approved for filing by the City; provided, however, that the Applicant shall have the right to sell the entire property described in Exhibit "A" to a single owner before final plat approval so long as said owner specifically agrees to be bound by all of the terms and conditions of this Ordinance and the Applicant agrees to have a sidewalk constructed on her other property on the East side of Marsh Road.

→ (b) Phases of Development: This project is projected to be developed in two phases over a five year period. The

first phase includes approximately seventeen (17) one-half (1/2) acre lots to be developed over three years. The second phase includes approximately thirteen (13) one-half (1/2) acre lots to be developed within the following two years. Specific conditions for permitting each phase shall be determined at the time of preliminary plat approval. As each phase is developed, the appropriate roadway and utility infrastructure including, but not limited to, water, sewer and stormwater facilities, shall be constructed in accordance with the master drainage, utility and roadway plans for the project, subject to approval of final engineering plans for each phase of development.

(c) Land Use and Intensity: The Marsh Point Business Park shall be limited to light industrial/wholesale commercial enterprises situated on one-half (1/2) acre lots with customary accessory uses, common drainage, traffic circulation and natural open space areas. The specific permitted uses are described on pages 7 - 10 of the Development Plan Report except that items 11, 15, 37, 38, 48, 50, 56, 65, 67, 73, 74, 84, 85, 87, 95, 96, 99, 103 and 113 shall not be permitted uses. Any outside storage (more than 48 hours) of vehicles, material, equipment and supplies shall be fully screened from public view; provided, however, that no vehicles shall be stored on the property for more than 90 days and no junk yard or auto salvage operations shall be permitted whatsoever. All retail sales shall be incidental to a primary wholesale commercial activity.

The development of the property shall be consistent with the limits described below for each land use area within the proposed PD; provided, however, that the Applicant shall have the right to reduce the net density of any given phase without having to amend the approved Development Plan for the project. The location and approximate size of the land use areas are shown on the Development Plan Maps and identified as separate phases.

MAXIMUM PERMITTED DENSITY

| | Total Lots | Upland Areas | Net Density | Wetland Areas | Total Acreage | Gross Density |
|---------|-----------------|--------------------|--------------------|-------------------|--------------------|--------------------|
| Phase 1 | 17 | 12.076 | 1.408 | 0.060 | 12.136 | 1.401 |
| Phase 2 | 13 | 2.964 | 4.386 | 6.970 | 9.934 | 1.309 |
| TOTAL | 30 ^a | 15.04 ^b | 1.995 ^a | 7.03 ^c | 22.07 ^d | 1.359 ^a |

^aProject density shall be reduced if the net developable acreage is not sufficient to accommodate 30 one-half (1/2) acre lots plus common drainage, open space, roads, landscape buffers, tree protection, required mitigation areas, etc.

^bSubject to final determination of wetland limits.

I. DEVELOPMENT PHASING SCHEDULE

Phase I of Development of Marsh Point Business Park consists of the Development of Lot Numbers 1, 2, 3, 4, 5, 6, 7, 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30. Construction of improvements for Phase I would commence upon approval by the City of DeLand.

Permitting for Phase II Construction would be implemented upon Phase I reaching the 70 percent build-out or 12 lots of the 17 proposed lots being purchased.

Anticipated development time frame for Phase I is three years with Phase II being developed within the following two years.

Development Plan Report for Marsh Point
Business Park

BOUNDARY SURVEY FOR HAROLD WATSON

DESCRIPTION (WRITTEN)

ALL OF LOTS 11, 15 AND 16 AND THAT PART OF LOTS 13, 14, 25 AND 26, LYING WESTERLY OF MARSH ROAD AS NOW LAID OUT, BLUE LAKE CELERY COMPANY SUBDIVISION, ACCORDING TO THE PLAT RECORDED IN MAP BOOK 4, PAGE 171, PUBLIC RECORDS OF VOLUSIA COUNTY.

DESCRIPTION FOR ANNEXATION (WRITTEN)

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COMMENCE AT THE INTERSECTION OF THE CENTERLINES OF OLD DAYTONA ROAD AND MARSH ROAD, SAID INTERSECTION BEING MARKED BY A CROSS IN THE OLD BRICK ROAD; RUN THENCE S 43°17'32" E, ALONG THE CENTERLINE OF MARSH ROAD AS NOW LAID OUT, A DISTANCE OF 492.70 FEET TO ITS INTERSECTION WITH THE EASTERLY EXTENSION OF THE SOUTH LINE OF LOT 1, FIRST ADDITION TO DeLAND HIGHLANDS, ACCORDING TO THE PLAT RECORDED IN MAP BOOK 19, PAGE 23, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE S 89°46'28" W, ALONG SAID SOUTH LINE, A DISTANCE OF 41.06 FEET TO THE SOUTHEAST CORNER OF SAID LOT 1 AND THE POINT OF BEGINNING; THENCE S 43°17'32" E, AND PARALLEL WITH THE CENTERLINE OF MARSH ROAD, AS NOW LAID OUT AND OCCUPIED, A DISTANCE OF 1278.45 FEET TO THE POINT OF CURVATURE OF A CURVE WHICH IS CONCAVE WESTERLY, HAVING A RADIUS OF 263.52 FEET AND A CENTRAL ANGLE OF 43°22'09"; THENCE ALONG THE ARC OF SAID CURVE, A DISTANCE OF 199.47 FEET TO THE POINT OF TANGENCY THEREOF; THENCE S 00°04'38" W, AND PARALLEL WITH THE AFORESAID CENTERLINE, A DISTANCE OF 166.50 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 92; THENCE S 63°13'48" W, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 75.86 FEET TO A POINT ON THE SOUTH LINE OF LOT 26, AFORESAID; THENCE S 89°22'08" W, ALONG SAID SOUTH LINE, A DISTANCE OF 459.24 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF THAT CERTAIN CANAL AS SHOWN ON THE AFORESAID PLAT OF BLUE LAKE CELERY COMPANY SUBDIVISION; THENCE N 40°13'53" W, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 1285.18 FEET; THENCE N 29°41'16" W, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 572.41 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF OLD DAYTONA ROAD; THENCE N 66°41'26" E, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 364.39 FEET TO THE NORTHWEST CORNER OF LOT 4, FIRST ADDITION TO DeLAND HIGHLANDS, AFORESAID; THENCE S 00°42'00" E, ALONG THE WEST LINE OF LOTS 2, 3 AND 4, FIRST ADDITION TO DeLAND HIGHLANDS, A DISTANCE OF 306.72 FEET TO THE SOUTHWEST CORNER OF SAID LOT 2; THENCE N 89°46'28" E, ALONG THE SOUTH LINE OF LOTS 1 AND 2, AFORESAID, A DISTANCE OF 392.50 FEET TO THE POINT OF BEGINNING; SAID PARCEL CONTAINING 23.02 ACRES, MORE OR LESS; SUBJECT TO RIGHT-OF-WAYS AND EASEMENTS OF RECORD.

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THE SOUTH 1/2 OF A 40 FOOT WIDE UNNAMED ROAD LYING NORTH OF AND ADJACENT TO LOTS 14 AND 15, AND WESTERLY OF MARSH ROAD AS NOW LAID OUT AND OCCUPIED; AND THE WEST 1/2 OF A 40 FOOT WIDE UNNAMED ROAD LYING EAST OF AND ADJACENT TO LOTS 11 AND 16, AND SOUTHERLY OF OLD DAYTONA ROAD, BLUE LAKE CELERY COMPANY SUBDIVISION, ACCORDING TO THE PLAT RECORDED IN MAP BOOK 19, PAGE 123, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

BEARING STRUCTURE SHOWN HEREON IS BASED ON THE CENTERLINE OF OLD DAYTONA ROAD BEING N 66°41'26" E, ASSUMED DATUM.

GENERAL NOTES:

- 1) NO RECORD RIGHT-OF-WAY FOR MARSH ROAD WAS PROVIDED FOR THIS SURVEY.
- 2) THIS SURVEY WAS PERFORMED WITHOUT BENEFIT OF A TITLE REPORT.
- 3) THERE MAY BE ADDITIONAL RESTRICTIONS NOT SHOWN ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.
- 4) THE CANAL RIGHT-OF-WAY AS SHOWN HEREON IS BASED ON THE FIELD LOCATION OF THE EXISTING CANAL.

1285.18
 572.41
 1278.45
 1170.20
 1278.45
 1143.14
 115.31

1278.45
 199.47
 143.07
 135.38

392.50
 459.24
 163.14

PLANNING DEPARTMENT

MEMO TO FILE

DATE: April 19, 1994

FILE NO.: Z-91-02-01 Marsh Point Business Park Phase I

FROM: Eunice Muir, Staff Assistant

SUBJECT: Copy of the Development Order loaned to Astrid de Parry

STATUS: Per Gary Schindler, a copy of the Development Order has been loaned to Astrid de Parry, Attorney, for copying.

| PHONE CALL | | | | |
|---|---------------------|-------------------------------------|--------------------------|--------------------|
| FOR <u>Astrid</u> | DATE <u>4/19/94</u> | TIME <u>12:15</u> | | |
| M <u>Eunice Muir</u> | | | | |
| OF <u>Planning Office</u> | | <input checked="" type="checkbox"/> | TELEPHONED | |
| PHONE _____ | AREA CODE _____ | NUMBER _____ | EXTENSION _____ | |
| FAX# _____ | | | <input type="checkbox"/> | RETURNED YOUR CALL |
| MESSAGE <u>Re: return of development orders for Marsh Point Bus. Park (pls. return)</u> | | | <input type="checkbox"/> | PLEASE CALL |
| | | | <input type="checkbox"/> | WILL CALL AGAIN |
| | | | <input type="checkbox"/> | CAME TO SEE YOU |
| | | | <input type="checkbox"/> | WANTS TO SEE YOU |
| | SIGNED <u>Deb</u> | | | |

Adams SC 1154-2D