

## MEMORANDUM

**TO:** Honorable Mayor and City Council Members  
**FROM:** Elaine Wilson, Planning and Zoning Analyst II *EW*  
**DATE:** April 16, 2008  
**SUBJECT:** Dixie Truck Storage Facility – Site Plan

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### PURPOSE

To consider approval for the site plan for Dixie Truck Storage Facility.

### BACKGROUND

The subject property consists of a 9.37-acre parcel that is currently vacant and undeveloped. It is located on the north side of East Rhode Island Avenue, approximately 450 feet east of Leavitt Avenue. The applicant proposes a long-term parking area for vehicles; with a small office building on site.

The Dixie Truck Storage Facility site plan application was presented to the Planning Commission at a regular meeting on April 2, 2008, in accordance with Section 7.5.2.E of the City's Land Development Code, in order to present a recommendation to the City Council. The Commission voted 3 to 2 to recommend that the City Council deny the site plan.

The staff report to the Planning Commission listed six outstanding items that needed to be corrected to bring the site plan into compliance with the City Land Development Regulations:

1. **A second entrance to the project is added,**
2. **The long-term parking lot is paved,**
3. **Elevations that indicate the building meets City Appearance Standards are submitted and approved by staff,**
4. **A dumpster is included on site,**
5. **A utility plan detailing the sewer connection is submitted and approved by staff,**
6. **Any outstanding engineering and landscaping issues are resolved.**

During the Planning Commission meeting the applicant agreed to change items 1, 4 and 6 on the site plan and to submit elevations to comply with item 3. The attached, revised site plan, (dated April 14, 2008), reflects these changes. The elevations have not been submitted at this time but staff feels the building can be designed in accordance with the City Appearance Standards.

During the Commission meeting staff noted that the site plan showed a septic system but that a sewer line is currently being installed along Rhode Island Avenue. The applicant was informed he would be required to connect to the sewer line when it becomes available and recommended that the plan be revised accordingly.

On April 14 the Development Services Director received a letter from Darren Elkind, the applicant's attorney, regarding this matter. In the letter Mr. Elkind stated that since the sewerage flow is will be less than 1,000 gallons per day and the force main being installed is a high pressure line, his opinion is that the site will not be required to connect to the system.

According to Paul Johnson, Orange City Public Works Director, there will be a low pressure line in the area and the project will be required to connect to it within one year of it becoming available.

In regard to item 2, the applicant has proposed to install crushed concrete to stabilize the truck parking area. **Staff maintains that crushed concrete does not meets the requirements as set forth in Sec. 8.7.7.A.1 of the City Land Development Code, which states:**

**“Any required off-street parking and loading and unloading areas shall be surfaced with brick, asphalt, bituminous concrete, Portland concrete, or paving blocks, and maintained in a smooth, well-graded condition, and in compliance with Chapter 12 of this Code. Where light duty or infrequent use of the parking lot may make it desirable, the approving body may approve a grass or gravel surface.”**

Attached to this memo are a copy of the staff report submitted to the Commission, minutes from the Commission meeting, the site plan and Resolution No. 475-08.

**RECOMMENDATION**

Staff and the Planning Commission recommend that City Council does not pass Resolution 475-08, thereby denying the approval of the Dixie Truck Parking Facility site plan.

**RESOLUTION NO. 475-08**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE CITY, FLORIDA, TO APPROVE THE SITE PLAN FOR THE DIXIE TRUCK PARKING FACILITY; REPEALING ALL RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

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**WHEREAS**, Mark Neiman, representing property owner Milton E. Evans, submitted a Commercial Development application and site plan to the Development Services Department on May 11, 2007; and

**WHEREAS**, the Planning Commission held a public hearing on April 2, 2008, to consider the Dixie site plan for a recommendation of approval to City Council, and voted 3 to 2 to recommend denial of the site plan.

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

**SECTION 1.** That the site plan for the "Dixie Truck Parking Facility" be approved with the following stipulations:

1. A second entrance to the project is added,
2. The long-term parking lot is paved,
3. Elevations that indicate the building meets City Appearance Standards are submitted and approved by staff,
4. A dumpster is included on site,
5. A utility plan detailing the sewer connection is submitted and approved by staff,
6. Any outstanding engineering and landscaping issues are resolved.

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

**SECTION 3.** This Resolution shall take effect upon compliance with the stipulations listed herein.

**ROLL CALL VOTE AS FOLLOWS:**

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

**ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2008.**

**ATTEST:**

**AUTHENTICATED:**

\_\_\_\_\_  
Deborah J. Renner, CMC, City Clerk

\_\_\_\_\_  
Harley Strickland, Mayor

Approved as to form and legal sufficiency:

\_\_\_\_\_  
W. E. Reischmann, City Attorney

# MEMORANDUM

**DATE:** March 25, 2008

**TO:** Chairman Seaman and Members of the Orange City Planning Commission

**FROM:** Elaine Wilson, Planning & Zoning Analyst II *لسمو*

**SUBJECT:** Review and Consideration of Site Plan Dated May 11, 2007 for a Truck Parking Facility on Rhode Island Avenue

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## BACKGROUND

Mark Neiman from the engineering firm Civil Solutions of Central Florida Inc. submitted an application for this 9.37 acre project to the Development Services Department on May 11, 2007. Mr. Neiman represents Milton E. Evans, the owner of the subject property. The subject property is the southwest corner of a 40 acre parcel owned by Mr. Evans.

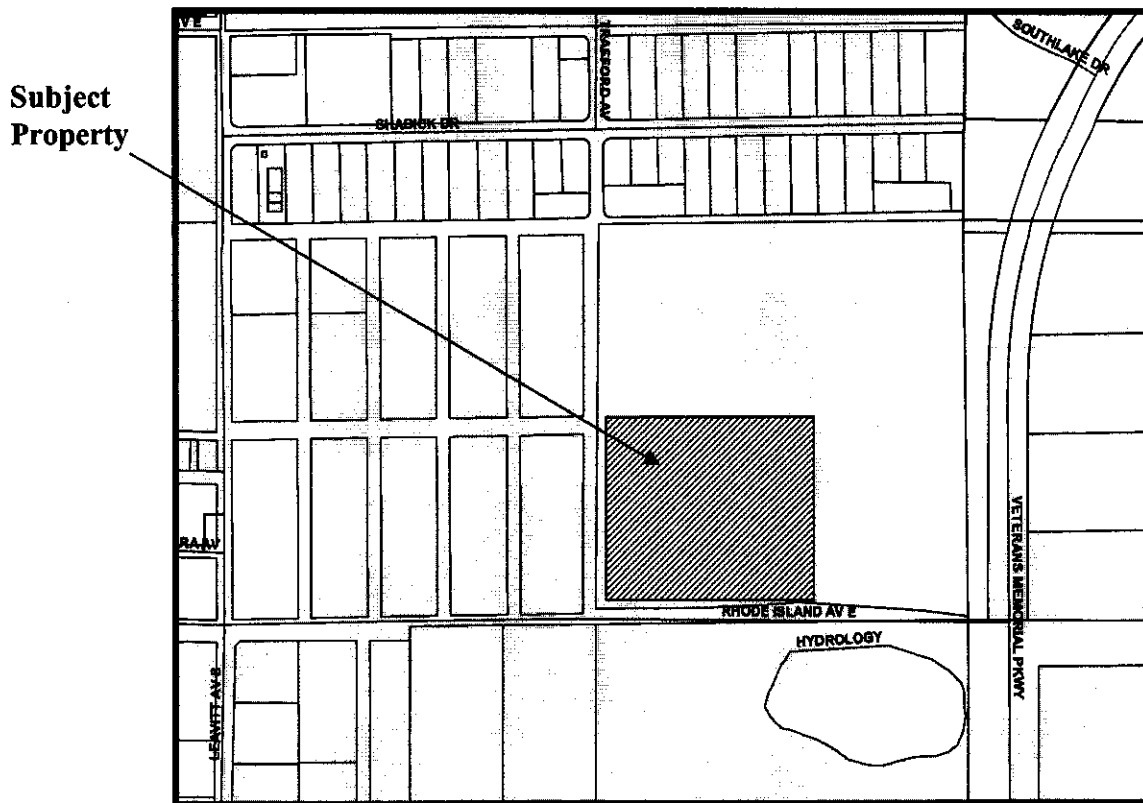
Dixie Septic originally submitted plans for the project on Aug. 23, 2006. Staff met with the applicant prior to the submittal to discuss the proposed project. The Technical Review Committee met with the project development team on Oct. 12, 2006 and a written report was forwarded to the applicant on Nov. 23, 2006. The plans submitted in May 2007 were the result of the meeting and report.

Because of numerous outstanding issues, the project was placed on hold for several months. At this time Staff is bringing it before the Planning Commission for its consideration. Because the site plan is for a project of more than five acres, the application must go before City Council. Therefore, the Commission's responsibility is to make a recommendation to City Council in regard to approval of the project. By Code, the Council may approve, approve with conditions or deny the site plan application.

## OVERVIEW OF LAND USE AND ZONING STATUS

	Designated Land Use	Zoning Classification	Existing Land Use	Percentage Developed	Jurisdiction
<b>Subject Property</b>	Industrial Limited, IL	Light Industrial, I-1	Vacant	0	City
<b>North</b>	Industrial Limited, IL	Light Industrial, I-1	Vacant	0	City
<b>South</b>	Public/ Government & Institutional, GU	Commercial Recreation, CR	Volusia County Park	100	City
<b>East</b>	Industrial Limited, IL	Light Industrial, I-1	Vacant	0	City
<b>West</b>	Industrial Heavy, IH	Heavy Industrial, I-2	Landfill	100	City

## VICINITY MAP

**PROJECT ANALYSIS**

The proposed parking facility will consist of a secured, long-term parking lot for a variety of vehicles and a 1,440 square foot building, which will provide office space. The applicant proposes allowing parking of all types of vehicles, from cars to tractor trailers. The intent is to provide parking long-term, not overnight parking. In lieu of a fence or wall, a 3-foot berm and landscaping will be installed to provide screening of the parking facility. Due to the difference in elevation between the roadway and the lot, the view of parked vehicles will be limited.

**TRC REVIEW**

The Technical Review Committee (TRC) met on Oct. 12, 2006 to review the site plan for issues related to access control, water and sewer, stormwater drainage and retention, parking, appearance, trees and landscaping, as listed in of the City's land development code.

**Building Setback** — The building meets and exceeds setback requirements on all sides. The building, which will provide office space for the site, is to be located near the entrance from Rhode Island Avenue. The required front setback is 50 feet and 88 feet are proposed. The required rear setback is 10 feet and 470 feet are proposed. The required side setback is 10 feet and 55 feet are proposed. The vehicle storage/parking area is set back approximately 93 feet from the front property line.

**Parking** — The proposed development is to provide parking for semi-trailer trucks and other vehicles. Thus most of the property will be devoted to a large parking area. The parking area will not be stripped with designated parking spaces, allowing flexibility in size and number of vehicles parked.

The Fire Department voiced concern that accessibility and the sufficient drive aisles be provided in case of a fire. At the TRC meeting, the applicant's representative stated that parking can be organized to provide the necessary access. The plan does depict the layout and provides proposed parking spaces and driveways.

**The applicant proposed to install crushed concrete to stabilize the truck parking area. Staff maintains that crushed concrete does not meet the requirements as set forth in Sec. 8.7.7.A.1 of the City Land Development Code, which states:**

**“Any required off-street parking and loading and unloading areas shall be surfaced with brick, asphalt, bituminous concrete, Portland concrete, or paving blocks, and maintained in a smooth, well-graded condition, and in compliance with Chapter 12 of this Code. Where light duty or infrequent use of the parking lot may make it desirable, the approving body may approve a grass or gravel surface.”**

Crushed concrete does not comply with these requirements. It does not form a complete, impervious surface. The opinion of the TRC members is that crushed concrete is more comparable to gravel than to any of the listed surface materials. Based on the proposed use, the property does not fall under light duty or infrequent use. Therefore the waiver for those uses does not apply.

There are several reasons that pavement is preferred over the proposed material:

1. Reduce possible groundwater contamination resulting from gas and oil leaking from vehicles directly onto the ground,
2. Reduce impact on adjacent wetlands,
3. Prevent air pollution from dust blowing from the site,
4. Avoid the appearance of a “dirt” parking lot.

**Parking Calculations** — Based on 1 parking space for every 200 square feet of office space, a total of 7 spaces, including one handicapped space, are required. The proposed plan indicates 5 spaces for automobiles will be provided, including 1 handicapped space. The applicant has stated that only two employees will be on site and that the building is to be used as warehouse space rather than an office. Therefore Mr. Evans has requested a waiver of the additional parking spaces.

No designated handicapped accessibility from the long-term parking area to the office. The applicant's representative stated no vehicles would be allowed into the parking area until business was completed. Staff cautioned that the site does not meet the intent of the American's with Disability Act (ADA), and the owner will be liable for any legal repercussions resulting from failure to provide accessibility.

**Driveway and Access** — One entrance to the property is proposed from Rhode Island Avenue. Section 7.4 of the LDC states:

**“All proposed developments that require site plan approval, except for utilities, essential services and communication towers, shall front on a paved street and have at least 2 separate entrances. Where, in the opinion of the approving body, 2 separate entrances cannot be provided, the approving body may require an easement or emergency ingress and egress in place of one of the entrances. Primary access to all proposed developments shall be from a street paved to the standards of the Orange City Design Standards Manual. This street, if not already paved, shall be paved by the developer from the development’s entrances to the nearest public paved street. The width, grade, construction and material specifications for all streets shall conform to the standards of the Orange City Design Standards Manual.”**

Because this requirement was not met by the proposed site plan, staff requested that a second entrance be provided.

**As proposed the development does not have two separate entrances in accordance with Sec. 7.4. Therefore, staff cannot recommend approval of the project as proposed.**

**Water and Wastewater Service** — The proposed development lies within the Orange City water and wastewater area. A written statement from Orange City Utilities stating that adequate capacity exists to serve the site has not been submitted by the applicant.

At the time the proposed plan was drawn, no sewer existed along Rhode Island and a septic system was proposed. At this time the sewer line along Rhode Island is being installed. The applicant will be required to connect to the sewer.

**Solid Waste Disposal** — No dumpster or other provision for solid waste disposal is proposed for the site. The applicant is proposing curb side pick-up. Under Sec. 7.3.2.7 Solid Waste, the site plan must show the “location and access provisions for refuse service, including pad, screening, fencing and landscaping.” **Staff does not believe curb side pick will be adequate based on the number of trucks that could be parked on site at any given time. TRC recommends that a dumpster be installed in accordance with the LDC.**

**Stormwater Drainage/ Retention** — The City Engineer granted conditional approval of the proposed plan. That conditional approval is based on the submitted plan, which shows the truck parking area finished with crushed concrete. Since crushed concrete does not meet the zoning requirements (as mentioned earlier in this report), new drainage calculations reflecting the change may be required by the City Engineer if impervious pavement is installed.

**Open Space** — The proposed plan meets and exceeds the requirement of 25 percent open space. The proposed landscape and drainage retention areas equal 4.37 acres — approximately 46.6 percent of the total property.

**Tree Protection & Landscaping** — With the exception of some details, the proposed plan meets Code requirements in regard to landscaping. **Still outstanding are:**

1. **proper plantings around the backflow preventor,**
2. **a detail showing how trees to be preserved are to be protected,**
3. **additional variety in the plantings around the building.**

Staff recommends that a landscape plan indicating correction of these items be submitted prior to issuance of any development order.

**Sidewalk and Pedestrian Pathway** — Because the proposed facility is to be secured by a locked gate, no sidewalk connection to the right-of-way is proposed. The applicant has requested a waiver of the Code requirement for a connection from the development to the right-of-way. The site plan does indicate that a 5-foot sidewalk will be installed in the Rhode Island Avenue ROW.

**Master Lighting Plan** — A lighting plan was submitted with the site plan. The plan meets Code requirements in regard to light spillage and the location of light poles. No details of the height of light poles and fixtures are included on the lighting plan. Staff recommends that details of the light fixtures and poles indicating compliance with City Code be submitted as a condition of approval of the site plan.

**Proposed Signage** — No signage is proposed for the site.

**Threatened and Endangered Species** — A Threatened and Endangered Species survey dated Sept. 1, 2006 was submitted to the City. Gopher Tortoises were observed on site according to that report. Prior to any development activity on the property, the necessary permit from Florida Fish and Wildlife Conservation Commission must be obtained and submitted to the City.

**Appearance Standards** — The architectural elevations for the proposed 1,440 square foot building were not attached to the site plan package submitted in May 2007. Staff has seen the building plan and a sketch of the elevations. Staff expressed some concern regarding the architectural elevations of the prefabricated building. Areas of special concern include blank wall areas, the spacing, placement and size of the windows, and the pitch of the roof. A representative of the company manufacturing the building has stated that the required changes can be made.

**TRC RECOMMENDATION**

At its meeting, the Technical Review Committee agreed that the outstanding items could be resolved by making necessary revisions to the site plan. **The TRC recommended denial of the site plan for the Dixie Septic Truck Parking Facility unless those revisions were made.**

Per Sec. 7.5.3.A, the Planning Commission is responsible for making a recommendation to the City Council for final action on this site plan application.

➤ **The Planning Commission may decide to recommend denial of this site plan due to the deficiencies noted in this report.**

➤ **Or the Commission may decide to recommend approval with the following stipulations:**

- 1. A second entrance to the project is added,**
- 2. The long-term parking lot is paved,**
- 3. Elevations that indicate the building meets City Appearance Standards are submitted and approved by staff,**
- 4. A dumpster is included on site,**
- 5. A utility plan detailing the sewer connection is submitted and approved by staff,**
- 6. Any outstanding engineering and landscaping issues are resolved.**

1 **MINUTES OF THE REGULAR MEETING** of the Planning Commission of the City of Orange City,  
2 Florida, held on Wednesday, April 2, 2008, at 7:00 p.m. in Council Chambers, 201 N. Holly Avenue,  
3 Orange City, Florida.

**DRAFT**

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

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

9 **2. ROLL CALL:**

10  
11 **PRESENT:** Chairman David Seaman, Vice Chairman Benjamin Franklin, Commissioners: Paul  
12 DeSilva, Christopher Weldon, and Michelle Polgar; Staff Members: Chester Murray,  
13 Development Services Director; Robin Drage, Acting City Attorney; Elaine Wilson and  
14 Wendy Hickey, Planning & Zoning Analysts  
15

16 **ABSENT:** Hector Gonzalez and Alisa Stafford  
17

18 **3. APPROVAL OF MINUTES:** March 5, 2008  
19

20 Commissioner DeSilva noted a correction on Page 2, first paragraph which indicates that he said the well  
21 was located in the sinkhole. He advised that it should read that it was "near the area" of the sinkhole.  
22

23 **Commissioner Franklin moved to approve the minutes as amended,**  
24 **seconded by Commissioner DeSilva and passed by unanimous 5/0 voice**  
25 **vote of the Commission.**  
26

27 **Public Hearings**

28  
29 **4. Review and Consideration** of an application from Mr. Neiman representing Milton E. Evans for a  
30 site plan dated May 11, 2007 for a truck parking facility on Rhode Island Avenue identified as  
31 parcel number 8011-00-00-0101.  
32

33 Robin Drage, Acting City Attorney, advised that this is a quasi-judicial hearing and she asked that anyone  
34 having had any ex-parte communications on this matter disclose them at this time. None were disclosed.  
35 She noted that public comment would be heard during the public hearing and advised that anyone wishing  
36 to speak should fill out a "speaker request form." Ms. Drage stated that the legal standards for this matter  
37 can be found in Chapter 7 of the Land Development Code. She advised that the standards are discussed in  
38 the staff report.  
39

40 Elaine Wilson, Planning and Zoning Analyst, came forward and advised that this project was known as the  
41 "Dixie Septic Truck Storage Facility" site plan and that because of the size of the project, the Commission  
42 was charged with making a recommendation to the City Council regarding their final approval on the  
43 matter. Ms. Wilson noted that the property is located on Rhode Island Avenue immediately to the east of  
44 the existing GEL Landfill.  
45

46 Ms. Wilson referenced the site plan and noted that there is only one entrance proposed for the project

1 although two access points are required in the code. She further noted that the parking area as proposed is  
2 unpaved. She said that the property is proposed to be covered with crushed cement which also does not  
3 meet with Code. Ms. Wilson noted the location of the property on an aerial view. She advised that there is  
4 an existing parking facility on the GEL property. This parking area is unpaved and there have been  
5 "ongoing complaints" about dust at the site.

6  
7 Ms. Wilson stated that this is the first time since she has worked for the City that she has presented a  
8 project that did not have a staff recommendation for approval.

9  
10 Commissioner DeSilva asked whether crushed concrete complies with City regulations. Ms. Wilson  
11 responded in the negative. Commissioner DeSilva then asked whether the Fire Department's concerns  
12 over accessibility have been resolved. Ms. Wilson responded, "yes." She said that the department had  
13 expressed concern that there is no guarantee of access in a situation with unpaved, unmarked parking  
14 which could interfere with emergency response. She explained that the crushed concrete prevents  
15 permanent marking in the parking area so that access lanes are not clearly identified. She advised that a  
16 conceptual plan had been submitted, however, there is no guarantee that it will be followed.

17  
18 Chairman Seaman asked if the driveway from Rhode Island is paved. Ms. Wilson responded that to her  
19 knowledge there are no plans to pave it. Only the handicapped parking area will be paved. In response to  
20 a further question from Chairman Seaman, Ms. Wilson stated that the entry would be paved from Rhode  
21 Island to the building on the property.

22  
23 Commissioner Franklin asked whether Dixie Septic would be storing their vehicles at the site as well. Ms.  
24 Wilson responded that she did not know. She confirmed that the entire parking area is pervious.

25  
26 Commissioner DeSilva asked whether the applicant has proposed a second entrance. Ms. Wilson  
27 responded, "No they have not." In addition, she stated that they have not complied with the waste pickup  
28 in general. Ms. Wilson stated that she assumed responsibility for this project in October 2007. At that  
29 time, a report was sent to the applicant to which no response was received. She said that she spoke with  
30 the engineer for the project and was told that they did not wish to make any revisions to the plan at this  
31 time.

32  
33 Commissioner Weldon questioned whether the City could have any liability from approving a project that  
34 does not meet ADA standards. Ms. Wilson said that she could not provide a legal opinion in response to  
35 that question. Commissioner Weldon expressed his concern over exposing the City to a potential liability.  
36 Ms. Drage said that she was not prepared to give an opinion as to the liability issue, however, the City  
37 does have an obligation to comply with ADA standards.

38  
39 Ms. Drage requested that those individuals requesting to speak on this matter stand and be sworn in at this  
40 time.

41  
42 Mr. Murray stated that the City does not have the authority to waive the ADA requirements.

43  
44 Commissioner DeSilva asked Ms. Wilson if staff would be satisfied if the applicant met the six stipulations  
45 imposed in her report. Ms. Wilson responded in the affirmative and noted that she did not include the  
46 ADA requirements as a stipulation.

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1 Commissioner Franklin noted that there are gopher tortoises on the site and he did not see a permit from  
2 Florida Fish and Wildlife. Ms. Wilson said that this permit would not be issued until the property is ready  
3 for development. Commissioner Franklin asked whether discussions with the property owner about  
4 relocating the turtles had taken place. Ms. Wilson responded that the property owner would need to  
5 address that with the State.

6  
7 Chairman Seaman questioned why the applicant did not provide at least a conceptual elevation for the  
8 building with the submittal and asked whether staff was requiring that the site be connected to sewer when  
9 it is available. Ms. Wilson said that a sewer line is being installed along Rhode Island and that by the time  
10 a building was constructed, they would be required to connect. Chairman Seaman advised that normally,  
11 drawings of the underground are included on the site plan. Ms. Wilson responded that these drawings  
12 should be included as the sewer lines are being run at this time and the state requires that they connect.

13  
14 Commissioner Polgar noted that there are many concerns and non-compliance issues throughout the staff  
15 report for this project. She said that she would not be comfortable at this time with any approval, even  
16 with stipulations.

17  
18 Ms. Wilson addressed the earlier question about the building elevations stating that a sketch was submitted  
19 to the City with some hand-drawn changes made to it. She said that the applicant attempted unsuccessfully  
20 to obtain a drawing of the elevation prior to the meeting.

21  
22 Commissioner Weldon asked if there is an expiration date for the "threatened and endangered survey,"  
23 noting that it was submitted September 1, 2006. Commissioner Polgar stated that she thought the survey  
24 was good for two years.

25  
26 Chairman Seaman opened the public hearing.

27  
28 Darren Elkind, 505 Deltona Blvd., came forward and observed that the engineers for this project had  
29 submitted a site plan application in 2005. He advised that a number of issues arose subsequent to that  
30 submittal. These issues were addressed and the project was resubmitted to the TRC. Mr. Elkind advised  
31 that the property owner, Gene Evans, had always planned to use crushed concrete for this project and that  
32 this had been reflected in all of the drawings submitted to date.

33  
34 Mr. Elkind said that one of the demands made by the City was a dedication of right of way for what would  
35 be the extension of Trafford Avenue. He referred to an aerial photograph of the project site to identify this  
36 area. Mr. Elkind said that he advised the City that they would be required to purchase this right of way and  
37 could not force Mr. Evans to give it to the City. Mr. Elkind maintained that subsequent to Mr. Evans  
38 refusing to donate this right of way to the City, additional conditions were added to the requested  
39 development by City staff. These were to provide a second access and to pave the entire area. He said that  
40 he received a letter from Planning staff on December 18, 2007 demanding these revisions.

41  
42 Mr. Elkind said that City code allows the Planning Commission to waive those two requirements. He  
43 stated that when the applicant received the staff report, there were a number of issues that had never been  
44 raised before. He said that the building elevations had been submitted and that staff commented that the  
45 roof pitch was too steep. Mr. Elkind said that the building is a manufactured building and that he  
46 requested a letter from the manufacturer stating that they could meet the City's requirements regarding roof

**DRAFT**

1 pitch. He said that he was informed by staff that all issues regarding the building had been resolved. Mr.  
2 Elkind said that the only remaining two issues were the paving and the second access and that the code  
3 allows the applicant to request a hearing to have these requirements waived. He said that Mr. Evans has  
4 made efforts to comply with all requests that have been made by the City.

5  
6 Commissioner DeSilva asked whether a scale drawing of the proposed building had been submitted, noting  
7 that Ms. Wilson had referred to it as "a sketch." Mr. Elkind said that he was not exactly sure of the form  
8 of the drawings, but that he had been told by staff that they were sufficient.

9  
10 Mr. Elkind maintained that there is a need for a truck parking facility in order to keep the trucks parked  
11 lawfully and out of the residential areas. He said that eventually, Mr. Evans has plans for a "much more  
12 substantial development" on the property such as a high-tech industrial use. Unfortunately, the demand  
13 for this type of use is not there at present, therefore, Mr. Evans is proposing the parking lot in order to  
14 serve a need and to provide him with a return on his investment in the property. Mr. Elkind conceded that  
15 this is not necessarily the highest and best use of the property in the long term, but would serve a purpose  
16 at present.

17  
18 In response to a question from Commissioner DeSilva, Mr. Elkind said that he could understand the Fire  
19 Department insisting on two access points in a residential area or a factory, but that he could not see the  
20 need in a parking lot. He said that this is why there is a provision for a hearing on this matter in the code.

21  
22 In regard to the issue of ADA compliance, Mr. Elkind said that he understood the concerns and he  
23 maintained that the City would not have any liability in the matter because of the provisions of sovereign  
24 immunity.

25  
26 Commissioner Polgar requested to see the letter from last December that Mr. Elkind referred to previously.  
27 She requested copies of the letter for each Commissioner. Mr. Murray confirmed that the letter in question  
28 was written by him and that it read exactly as Mr. Elkind said that it did. Mr. Elkind stated, "What I was  
29 trying to portray to you is, I got the sense when I was sitting back there that you all are perceiving from  
30 staff's presentation that we're this group of yahoos that didn't do anything right." Mr. Elkind reiterated  
31 that his client has tried to comply with the City's wishes all along. Mr. Elkind said that there is a section of  
32 the code that allows an applicant to request a waiver from the ADA requirements. He said that they  
33 planned to write an explanation as to why a paved sidewalk at the site is not needed. Mr. Elkind said that  
34 there would only be one or two people working in the office at the site at any time.

35  
36 Chairman Seaman raised the issue of having an adequate number of parking spaces available for visitors or  
37 people picking up someone who had dropped off a truck for parking.

38  
39 Mike Cash, CSI Engineering, 605C W. New York Ave., DeLand, came forward and stated that the original  
40 design was for the site to be completely secure and that people would park, pay their fees, and then drive  
41 in. He contended that not many cars would need parking spaces. Chairman Seaman questioned how the  
42 truck drivers would get home when they dropped their trucks back off at the lot. Mr. Cash responded that  
43 the applicant felt they had exceeded the parking requirements because there were 200 parking places on  
44 the lot. Mr. Elkind stated that if the two handicapped parking spaces are an issue, they can be added.  
45 Commissioner DeSilva noted that the application stated that parking would be available on the lot for all  
46 types of vehicles, cars and trucks.

**DRAFT**

1 Mr. Cash addressed the concerns raised by staff. Regarding the crushed concrete versus paving, he stated  
2 that it would capture more of the pollutants than a smooth surface. He advised that with a smooth surface,  
3 any rain water would end up in the retention pond which is directly connected to the water table. Mr. Cash  
4 addressed concerns regarding the impact on adjacent wetlands, and said that this project would be no more  
5 detrimental than the "blowing sand" that's already on the site. He suggested that the impact would not be  
6 affected any differently no matter what type of paving is done on the site. Mr. Cash said that the landscape  
7 plan provides for hedges and screening materials which would reduce visibility of the parking lot from the  
8 roadway. He advised that limiting driveway access is for security purposes. He said that Mr. Evans  
9 suggested adding a second access crash gate further north along the same driveway and stabilizing the  
10 drive, but the City insisted that it must be paved. Regarding the issue of solid waste disposal, Mr. Cash  
11 said that the applicant did not want a large dumpster outside the secure portion of the facility as it would  
12 become "a public dumping ground." He said that there would not be much trash generated by two people  
13 in a small office. Regarding stormwater retention, Mr. Cash advised that drainage calculations were done  
14 as if the lot was paved in asphalt or concrete or any other impervious material, not on "slightly pervious"  
15 crushed concrete. He said that any issues with the landscape plan can be taken care of "very easily."  
16 Regarding ADA compliance, Mr. Cash said that it is met for the building/office, just not for the parking  
17 facility.

18  
19 Commissioner Franklin noted that diesel trucks leak and asked, "Am I to understand it is your contention  
20 that the leakage from these trucks is going to be totally contained by this crushed concrete?" Mr. Cash  
21 responded that it would be more contained than on a smooth hard surface. Commissioner Franklin asked,  
22 "So we will still probably have leaching into the subsurface?" Mr. Cash responded that less leaching  
23 would come to the retention pond than from runoff with a hard surface. Commissioner Franklin noted that  
24 there are ways of treating spillage in a waterway that are not available in a subsurface. Commissioner  
25 Franklin further noted that "every trucker I've ever seen" cleans out his truck when it is parked and said  
26 that he was not aware that the dumpster was to be placed outside the secure area. He suggested that there  
27 would be "quite a bit of trash." Mr. Cash said that the issue would be allowing access to dump the garbage  
28 in a secured facility. Chairman Seaman disagreed that this would be an issue that would prevent a  
29 dumpster. Mr. Cash advised that the plans were submitted in May and Mr. Evans got no response until  
30 September. Mr. Elkind said that Mr. Evans just indicated to him that he would be willing to place a  
31 dumpster inside the facility.

32  
33 Mr. Elkind stated that their would be a stormwater system installed at the site as provided for in the plans  
34 submitted for their stormwater permit. He stated, "The water is either going to flow over asphalt or  
35 concrete or its going to flow over recycled concrete....either way it's going to that stormwater retention  
36 pond as designed, as permitted." Mr. Evans clarified that the stormwater permit has not been issued as yet.

37  
38 Commissioner Weldon said that his concerns were based around a major spillage that might result from a  
39 truck losing a gas tank or some type of chemical being hosted inside a storage truck. He expressed that  
40 these types of situations would be easier to clean up on a paved surface than on crushed concrete. Mr.  
41 Elkind maintained that any spill would flow immediately into the drainage pond. He said that if the spill  
42 occurred on crushed concrete, it could be scraped as much as needed to remove the contamination whereas  
43 if it spills on asphalt, it flows more quickly to the retention area, thereby losing the ability to reclaim it.  
44 Mr. Cash said that the principle is much the way cat litter works to trap moisture.

45  
46 Commissioner DeSilva said that the staff report indicates that the TRC committee met with the project

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1 development team on October 12, 2006. He asked Mr. Cash if he was part of the project development  
2 team at that time. Mr. Cash responded that he was. Commissioner DeSilva noted that a written report was  
3 forwarded to the applicant on November 23<sup>rd</sup> of that year. He asked whether the City had always required  
4 that the project have a paved surface. Mr. Cash responded in the affirmative. He indicated that Mr. Evans  
5 had previously obtained permits from the City for other projects using alternative paving materials.  
6

7 Gene Evans came forward and requested to speak about recycled concrete. He began his presentation by  
8 providing a history of how the product was developed and sold. Mr. Evans said that the product is used by  
9 the State of Ohio to fill potholes on roadways. Mr. Evans said that the proposed project uses solar power  
10 for the lights on the entire facility. He said that he was designing the facility for parking only and that  
11 truckers would not be allowed to work on their trucks there. He said that he was not interested in having  
12 vehicles other than trucks parked at the facility. Mr. Evans distributed information regarding a dust control  
13 product that he said had “amazing results.” He said that it is a polymer that creates a surface similar to  
14 asphalt or concrete. Mr. Evans asked for approval of his project.  
15

16 Chester Murray, Development Services Director, came forward and stated that Mr. Evans is “a valued  
17 member of this community.” He said that staff has no problem with the concept of the project. Mr.  
18 Murray said that staff reviews every project equally by the code. He noted that there are exceptions to the  
19 paving requirements in situations where the use is light. Mr. Murray stated, “I contend that this is not light  
20 use when you bring in a 73,000 pound truck making a turn in that.” He conceded that neither staff nor the  
21 City Engineer have seen Mr. Evans’ stabilization of the concrete and that it might be a suitable alternative.  
22 Mr. Murray said that the ADA requirements must be met, as must the trash disposal. He said that staff  
23 would consider a gravel-improved crash gate, however, it has not been included on the drawings. Mr.  
24 Murray explained that his letter of December 18<sup>th</sup> advised that the project could move forward with a  
25 positive recommendation from staff if a second alternative entrance was added for emergencies and a  
26 paved parking lot is provided. He said that the applicant is not agreeable to these two conditions resulting  
27 in staff’s first recommendation for denial. He advised the Commission that their options are to deny the  
28 project or to approve it with stipulations. Mr. Murray expressed his confidence that the issues around the  
29 actual building could be resolved.  
30

31 Commissioner DeSilva asked whether Mr. Evans had provided any details regarding the technology  
32 involved in the treated crushed concrete as proposed. Mr. Murray responded that none had been provided  
33 to his knowledge.  
34

35 Mr. Murray advised the Commission that staff never issues a development order without a current threat to  
36 endangered species certificate.  
37

38 In response to a question from Commissioner DeSilva, Mr. Murray said that staff is willing to concede to a  
39 gravel or crushed concrete surface for the second (emergency) entrance, however this option has not been  
40 proposed by the applicant. Commissioner DeSilva addressed the points in the conditions. He verified that  
41 (1) staff has not received any further information about the technology used in the crushed concrete (2)  
42 issues with the elevation on the building have been resolved, (3) utility plan for the sewer connection – Mr.  
43 Murray said that the project could commence with a septic system, but that sewer lines are planned for that  
44 area in the near future, (4) outstanding landscape issues – applicant agrees to comply, (5) ADA compliance  
45 has been met near the building, just not from the long-term parking area to the building. Mr. Elkind said  
46 that a couple of the spaces could be paved, but regarding the matter of paving the entire area, he said that

1 Mr. Evans would not move forward under those circumstances. He explained that the use of the parking  
2 lot would be considered "light" as the trucks would be parked and left there for a period of time as opposed  
3 to the spaces being used over and over during the day. Commissioner DeSilva questioned why Mr. Evans  
4 has not submitted information on the technology used for the crushed concrete for staff's information. Mr.  
5 Evans responded that it had never been an issue. Mr. Elkind said that he attended the last TRC meeting  
6 and the crushed concrete was not an issue. He claimed that it only became an issue after Mr. Evans  
7 refused to dedicate Trafford Avenue to the City. Commissioner DeSilva suggested that the City's  
8 engineers evaluate the material. Mr. Cash said that the material is used widely in road base. Mr. Cash said  
9 that while people usually prefer to have a paved parking lot, that is a preference, not a need. Commissioner  
10 DeSilva said that because of the weight of the trucks, he would question the durability of the proposed  
11 surface. Mr. Cash responded that asphalt roads are held up by the base material which is either lime rock  
12 or crushed concrete.

13  
14 Commissioner DeSilva expressed his concern regarding enforcing orderly parking in an unmarked lot. Mr.  
15 Cash said that the spaces would be designated by concrete stops. He said that the aisles are wide enough  
16 for three vehicles. Commissioner DeSilva asked Mr. Evans if he is willing to install a second entrance and  
17 Mr. Evans responded in the affirmative.

18  
19 Mr. Murray said that staff is hearing new information tonight and he suggested that the applicant meet with  
20 staff to discuss the project again. He read from the section of the code whereby the Commission has the  
21 authority to table an issue pending the gathering of further information.

22  
23 Commissioner Franklin questioned the absence of a traffic impact study. Mr. Murray responded that  
24 because this project is not a Planned Unit Development (PUD), the study is not required.

25  
26 Ms. Drage said that the Commission's options at this time are to approve the project, approve with  
27 conditions, denial or to request that the discussion be continued until the next meeting.

28  
29 Mr. Elkind said that his client would be happy to wait for a month to give staff time to continue with their  
30 investigation of the proposed paving materials. Commissioner DeSilva noted that of seven stipulations,  
31 there is only one issue outstanding.

32  
33 Hank Durica, 1310 E. Lansdowne Ave., came forward and was sworn in. Mr. Durica asked whether fuel  
34 for the trucks would be stored on the site. Chairman Seaman responded, "no." Mr. Durica asked whether  
35 any of the drivers would be allowed to sleep overnight in their truck. Mr. Evans responded that he could  
36 not guarantee that a trailer full of food which needs refrigeration may not be kept running all night. Mr.  
37 Durica asked whether the trailer would be dropped and the driver and cab leave. Mr. Evans said that could  
38 happen. Mr. Durica noted that the contents of any trailer stored on the lot would be unknown to the Fire  
39 Department in the event of a fire. Mr. Evans said that generally, tanker trucks transport, empty their load  
40 and then return home. Mr. Durica noted that there are residences in the area which could have to be  
41 evacuated in the event of a hazardous fire. He questioned how thick the pad of crushed concrete would  
42 be. Mr. Cash responded that it would be eight inches. Mr. Durica questioned whether the pad would be  
43 maintained at a constant level. Mr. Cash responded that it would require maintenance as would any other  
44 parking lot that is not made of concrete. In response to a final question from Mr. Durica, Mr. Cash said  
45 that there are no DOT requirements for this operation.

46  
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1 Commissioner DeSilva asked Mr. Murray if he had any concerns regarding tanker or chemical trucks being  
2 parked on the lot. Mr. Murray responded that tanker trucks don't stay over night anywhere. He said that  
3 the Fire Department does have some concerns over hazardous materials, however, he stated that he is not  
4 qualified to comment on what type of trucks may be parked on the lot. He noted that trucks carrying  
5 hazardous materials must be marked. Mr. Murray stated, "We're off into speculation now, but I don't see  
6 anything any worse that would be parked there than is already in that entire area."  
7

8 Ms. Drage requested that Mr. Evans enter the information he presented previously into evidence as an  
9 exhibit.

10  
11 There being no further testimony to be offered, Chairman Seaman closed the public hearing.  
12

13 Chairman Seaman clarified that the issue is not whether or not the product Mr. Evans plans to use is good  
14 for this purpose, rather it is to recommend approval to the City Council on a site plan for the proposed  
15 project. He said that it appears that Mr. Evans can come to agreement with staff on at least six of the  
16 issues raised. He expressed his understanding that the job of the Commission is to review the project for  
17 compliance with the City's land development code and that there appears to be a conflict with two of the  
18 sections. Chairman Seaman advised that these standards must be adhered to in spite of a Commissioner's  
19 personal feelings about a project.  
20

21 Commissioner DeSilva stated that he feels there has been "a substantial lack of communication between  
22 the City and the applicant." He expressed his confidence that the parties could reach agreement with  
23 further negotiation.  
24

25 Commissioner Franklin said that Orange City is highly respected because of its stringent development  
26 codes. He acknowledged that a facility of this type is very-much needed in the community and suggested  
27 that perhaps bringing it to the Commission at this time is "slightly premature." He said that if Mr. Evans  
28 engineer can prove to the City's engineer and the TRC that the proposed surface can adequately meet the  
29 requirements of the code, there would be no problem making a positive recommendation to the City  
30 Council. Commissioner Franklin noted that there have been instances in the past where he has been  
31 required to approve projects he did not personally agree with because they did meet the code. He stated  
32 that in this particular instance, he could not do that.  
33

34 Commissioner Polgar stated that some of her concerns have been resolved with the exception of the  
35 parking lot.  
36

37 Commissioner Weldon said that he agrees with all of the comments that have been made. He said that he  
38 did not feel that there has been "due diligence" by either party to evaluate the concerns regarding conflicts  
39 with the code.  
40

41 Chairman Seaman passed the gavel to Vice Chair Franklin.  
42

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43 **Chairman Seaman moved that the Planning Commission recommend to**  
44 **the City Council denial of the site plan for the truck parking facility on**  
45 **Rhode Island Avenue, identified as parcel number 8011-00-00-0101 due**  
46 **to non compliance with (1) Section 8.7.7.a.1 of the City land development**

1                   **code for surfacing of off-street parking and (2) Section 7.4 driveway**  
2                   **access, seconded by Commissioner Weldon.**  
3

4 Commissioner Polgar requested clarification as to whether the motion was to deny the application.  
5 Chairman Seaman responded that it is to deny the site plan as currently written.  
6

7 Commissioner DeSilva questioned whether a recommendation of denial by the Commission would prevent  
8 the parties from engaging in further negotiation toward an agreement. Mr. Murray said that if the  
9 Commission recommends denial, this project would go to the City Council on April 22<sup>nd</sup>. He said that the  
10 applicant will have an opportunity to make a presentation to the City Council at that time. Mr. Murray  
11 stated, "I would hope that in that interim they would be prepared to make a more detailed presentation on  
12 their crushed concrete and their stabilization of that concrete to Council and perhaps avail themselves of  
13 our engineers in that interim period."  
14

15                   **Motion passed by 3/2 roll call vote of the Commission with**  
16                   **Commissioners Polgar and DeSilva voting "no."**  
17

18 Vice Chairman Franklin called for a five-minute recess at 8:54 with Chairman Seaman reconvening at  
19 9:02.  
20

21 **5.     Review and Consideration** of a request from Terry Williams representing Thad Harty for the  
22 approval of a site plan for Rhode Island Industrial Park office warehouse complex, identified as  
23 parcel number 8014-01-04-0010.  
24

25 Ms. Drage requested that any ex parte communications on this matter be disclosed at this time. No one  
26 spoke. Ms. Drage stated that this item would be reviewed under the provisions of Chapter 7 of the land  
27 development code. She swore in those witnesses wishing to speak on this item.  
28

29 Elaine Wilson, Planning & Zoning Analyst, came forward and stated that this is the property where Thad  
30 Harty maintains his current business operation (Harty Tractor Service) on the south side of Rhode Island  
31 Avenue. Ms. Wilson said that the Commission was considering the site plan for the proposed industrial  
32 park. She said that the St. Johns Water Management District (SJWMD) has already issued a permit for  
33 this project. Ms. Wilson advised that the owner is seeking "flexibility" in the development of this property  
34 and would like approval based on total square footage, not necessarily on the number of buildings in the  
35 project. The site plan for this project includes the existing Harty Tractor office and expansion of that  
36 office. Ms. Wilson said that currently, there is a trailer on the site that would be removed when the  
37 building is expanded. She presented a rendering of the proposed building which she characterized as  
38 "quite attractive." She advised that it does meet the appearance standards. Ms. Wilson showed a  
39 conceptual drawing of the proposed buildings, noting that each would have to be reviewed for compliance  
40 with city code. She noted that the proposed buildings are very similar to the existing Harty buildings on  
41 South Leavitt.  
42

43 Ms. Wilson said that the applicant is requesting a waiver of the City's requirement for an internal sidewalk  
44 because these are industrial buildings. She said that Mr. Harty has agreed to extend the sidewalk across  
45 the Rhode Island right of way on all property owned by him. There is no drainage easement for the  
46 property at this time, but it is in process. Ms. Wilson advised that the stormwater will drain into the pond

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