

ST. JOHNS COUNTY RESOLUTION NO. 90-193

WHEREAS, on May 27, 1986, the Board of County Commissioners of St. Johns County, Florida, by adoption of Resolution No. 86-64, issued a master development order approving development of a Development of Regional Impact ("DRI") known as "St. Johns Harbour" in accordance with an Application for Master Development Approval as defined in Resolution No. 86-64 (the "AMDA"), subject to certain conditions and commitments contained in Attachment "A" and Attachment "B" to the Resolution (the "Master Development Order" or "MDO"); and,

WHEREAS, on May 27, 1986, the Board of County Commissioners of St. Johns County, Florida, by adoption of Resolution No. 86-65, issued an incremental development order approving development of the first increment of St. Johns Harbour in accordance with an Application for Incremental Development Approval as defined in Resolution No. 86-65 (the "AIDA") subject to the conditions and commitments set forth Attachment "A" and Attachment "B" to the Resolution (the "Incremental Development Order" or "IDO"); and,

WHEREAS, Section 16 of the Incremental Development Order required that on or before June 30, 1987, the developer of the St. Johns Harbour DRI donate to the County land to provide the public with water oriented access and to construct on such land a boat ramp, paved access road and adequate paved parking area; and,

WHEREAS, Section 16 of the Incremental Development Order also provided that the requirement for construction of a boat ramp could be satisfied "on property already owned by the County should the County request such"; and,

WHEREAS, St. Johns County has obtained the property on Trout Creek described on Exhibit A to this Resolution (the "County Property") for the purpose of constructing a park with a boat ramp and related improvements; and,

WHEREAS, the St. Johns County Parks and Recreation Department has recommended that the developer of St. Johns Harbour make a cash contribution to the County to enable the County to construct a boat ramp, paved access road and paved parking area on the County Property instead of donating other property to the County and building a boat ramp on such property; and,

WHEREAS, the developer of St. Johns Harbour has offered to pay \$45,000 to the County within forty-five (45) days of a request for the funds from the County in lieu of donating the land and constructing a boat ramp and other facilities under Section 16 of the IDO and has requested the County's acceptance of such offer; and,

WHEREAS, the developer has further requested the Board to acknowledge that the time for commencement of significant physical development under Section 1 of Attachment "A" to the MDO and Section 1 of Attachment "A" to the IDO has been tolled during two (2) of the four and one-half (4 1/2) years that it has been actively engaged in attempting to obtain all necessary permits and approvals from the FDOT to commence construction of the interchange at I-95 and Nine Mile Road as required under the MDO and IDO so that significant physical development need not have commenced until May 27, 1991; and

WHEREAS, the developer has requested that the Board clarify the meaning of the MDO with regard to the conditions under which

the County would allow access to Interstate 95 from the St. Johns Harbour project after construction by the developer of St. Johns Harbour of an interchange at Interstate 95 and Nine Mile Road; and,

WHEREAS, the developer proposed, in a letter to the County Administrator dated September 11, 1990 (the "Turnbull Creek Proposal"), a copy of which is attached as Exhibit B to this resolution, to convey to St. Johns County the approximately 455 acre parcel identified as Parcel C in the MDO and now referred to as the Turnbull Creek Parcel as part of an environmental mitigation plan under which approximately 78 acres would be used by the County for a community park while the remaining 377 acres would be preserved in accordance with and subject to permits to be issued by the United States Army Corps of Engineers, St. Johns River Water Management District and Florida Department of Environmental Regulation; and,

WHEREAS, the developer has requested that the Board give conceptual approval to the Turnbull Creek Proposal and instruct the County staff to work with the developer to produce a management plan for the Turnbull Creek Property acceptable to the County and the various environmental permitting agencies; and,

WHEREAS, the Board has held a public hearing to consider the developer's request.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, THAT:

1. The developer shall pay and St. Johns County shall accept the sum of \$45,000 (the "Cash Payment") in cash from the developer in complete satisfaction of the developer's obligation under the General Conditions (Attachment "A"), Section 16 of the Incremental Development Order. The Cash Payment shall be paid to St. Johns County no later than forty-five (45) days after receipt of a written request from St. Johns County for its payment. The Cash Payment shall be used, in conjunction with other funds available to St. Johns County, by the County for the improvement of the County Property. The improvement of the County Property shall, upon completion, include, as required or permitted: a boat ramp, paved access and paved parking. The developer voluntarily waives any right to impact fee credits for the \$45,000 contribution.
2. The Board finds that the time for commencement of significant physical development specified under Section 1 of Attachment "A" to the Master Development Order and Section 1 of Attachment "A" to the Incremental Development Order has been tolled for a period of two years as a result of delays encountered by the developer in connection with obtaining the necessary permits and approvals for construction of the interchange at I-95 and Nine Mile Road and that the resulting time for commencement of significant physical development shall be May 27, 1991, until and unless modified by approval of a Modification of the Master Development Order and Incremental Development Order.
3. With reference to the developer's commitment in the MDO and IDO to construct an Interstate 95/Nine Mile Road interchange, the Board finds that St. Johns County, in its original adoption of the Master Development Order on May 27, 1986, anticipated that the developer of St. Johns Harbour would proceed with development of St. Johns Harbour as described in the Master Development Order through all six phases of development, subject to the terms, conditions and limitations of the Master Development Order and §380.06 (Florida Statutes). Subject to the applicable statutory limitations, and in reliance upon, inter alia, the traffic projections contained in the application and supplemental information filed in support of the MDO and IDO, the Board

confirms that it granted MDO approval without regard to future governmentally determined level of service criteria on Interstate 95 and without any MDO requirement or condition under which development in any phase of St. Johns Harbour would be delayed pending improvements to be made to Interstate 95.

The finding and confirmation contained in this paragraph shall not be deemed:

- To waive the constitutional or statutory rights of St. Johns County to protect the health, welfare and safety of its citizens; nor
 - To constitute an interpretation of Section 163.3167(8) (Florida Statutes) or its applicability to the St. Johns Harbour project; nor
 - A determination that the Board, in its approval of the MDO in 1986, anticipated that future Incremental Development Orders would be subsequently approved without additional conditions or criteria if the sum of: (i) existing traffic, at the time of the filing for approval of an incremental development order; plus (ii) the projected traffic to be generated by the proposed incremental phase of the St. Johns Harbour project, together with projected traffic from unbuilt portions of previously approved incremental phases of the St. Johns Harbour project, exceeded the I-95 traffic volume predicted to exist by the 1985 traffic analyses presented in support of the MOD and IDO as reviewed and corrected by the Northeast Florida Regional Planning Council and the County.
4. The Board hereby approves in concept the conveyance to the County of the Turnbull Creek Property in accordance with the Turnbull Creek Proposal and instructs the County staff to work with the developer to produce a management plan for the Turnbull Creek Property which is acceptable to the County and the various environmental permitting agencies. Nothing in this paragraph 4 shall be deemed to bind St. Johns County in any way or to require the County to accept a conveyance of the Turnbull Creek Parcel. The purpose of this paragraph 4 is to provide encouragement to the developer and to provide instructions to the staff to develop a management plan for the Turnbull Creek Property for the Board's consideration.

PASSED AND ADOPTED THIS 30TH DAY OF OCTOBER, 1990.

BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA

BY: *Craig A. Maguire*
Chairman

ATTEST: Carl "Bud" Markel, Clerk

BY: *Connie E. McDaniel*
Deputy Clerk

SJH53

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September 11, 1990

Mr. R. Daniel Castle
 County Administrator
 P. O. Drawer 349
 St. Augustine, FL 32085

RE: St. Johns Harbour Development of Regional Impact

Dear Mr. Castle:

I am writing on behalf of SJH Partnership, Ltd. and Dunavant Enterprises, Inc., the developers of the St. Johns Harbour Development of Regional Impact (the "DRI"). As you know, the developers plan to submit a proposed modification to the Master Development Order which was adopted by St. Johns County under Resolution No. 86-64 on May 27, 1986 and to the Incremental Development Order adopted by St. Johns County under Resolution No. 86-65 on May 27, 1986 (the "IDO"). We participated in a pre-application conference to discuss the proposed modification on July 2, 1990, and we expect to submit the revised application for development approval within the next 30 to 45 days.

In preparing to submit the revised Application for Development Approval, we have met with several members of the County staff to inform them of our plans and to seek their input. At one of those meetings, we discussed the area's recreational needs with Leon Shimer and developed several mutually agreeable ideas to be incorporated into our modification. Because of the interest of the County in having these ideas on the table prior to adoption of the new comprehensive plan, we recently agreed to put our ideas and commitments in writing in a form which could be presented to the Board of County Commissioners for a formal response, if desired.

The first idea related to Section 16 of the General Conditions of the IDO which addressed the developer's obligations with regard to water oriented recreation. The developers have agreed to contribute \$45,000 to the County in one cash payment to be made within 60 days after a request by the County indicating that it is prepared to proceed with the construction of a boat ramp and other improvements to the property it recently acquired on the south side of Trout Creek just off State Road 13. The payment would be used by the County to supplement other County funding sources for the improvement of this property. The boat ramp and other improvements are anticipated to satisfy the needs of this area of the County for

access to the river for the foreseeable future. The property is close enough to the St. Johns Harbour project that it will also serve the needs of the future residents of that project. The proposed payment would be in lieu of any required donation of land or facilities for access to the river and would satisfy the developer's obligations under the referenced section of the IDO. The developer is prepared to immediately formalize this commitment in any way desired by the County, provided the County acknowledges satisfaction of the developer's obligations with regard to this subject and provided the funds are used for the intended purpose or are returned within a reasonable time period. In any event, we will incorporate this concept into the revised application for development.

The second idea which we discussed with Mr. Shimer related to the use of the parcel we now identify as the Turnbull Creek Parcel. This parcel was formerly identified as Parcel C in the St. Johns Harbour DRI. This tract contains approximately 455 acres. The acreage includes approximately 150 acres of forested wetlands, 227 acres of forested uplands and 78 acres of uplands in a fallow field which was previously improved for agricultural purposes. We have identified the Turnbull Creek Parcel as a potential area for environmental mitigation in satisfaction of the anticipated mitigation requirements under United States Army Corps of Engineers ("ACOE"), Department of Environmental Regulation ("DER") and St. Johns River Water Management District ("SJRWMD") permits that will be necessary for the development of the balance of the property.

Under the mitigation concept we are advancing, we would preserve high quality wetlands, together with significant amounts of high quality forested uplands adjacent to those wetlands in lieu of the creation of large acreages of wetlands. We believe that this idea has considerable merit because the preserved uplands will fulfill many of the same functions such as water storage, filtration and wildlife habitat as would the wetlands that are being disturbed. Also, preservation of a balanced mixed of uplands and wetlands will be far more beneficial to the overall environment than the complete development of uplands balanced only by preservation and creation of wetlands.

Nevertheless, because the environmental agencies may ultimately require the creation of wetlands we had identified the 78 acre field on the Turnbull Creek parcel as a potential wetland creation site because it was already cleared. In our discussions with Mr. Shimer, however, we learned of the County's need for a large amount of acreage for a regional park. Our land planner developed a concept plan that would result in the donation of the entire Turnbull Creek parcel to St. Johns County as described below.

The 78 acres would be developed, owned and maintained by St. Johns County as a regional park that would contain athletic fields for baseball, football, soccer and other sports as well as other recreational amenities. The 78 acres is probably large enough to include a lake or lakes with frontage that could provide additional public recreation in the form of fishing and picnicking. The balance of the property, containing 377 acres, could be held by the County or conveyed to some other appropriate agency such as the St. Johns River Water Management District pursuant to appropriate agreements and preserved in its natural state with certain minor exceptions pursuant to a mitigation plan which would have to be approved by the ACOE, DER and the SJRWMD.

The exceptions to preservation in the natural state of the 377 acres would be anticipated to include a nature trail that would be open to the public. Under our concept plan, the nature trail would follow the existing silvicultural roads through the property to minimize disturbance of the land. The environmental agencies might allow small picnicking or camping areas to be located adjacent to the existing silvicultural roads through the property. Also, the agencies may request ongoing management for wildlife habitat. The management could include controlled burning to encourage certain species such as the gopher tortoises.

The developer is committed to pursuing this proposal. It will obviously require approval by the environmental permitting agencies as well as St. Johns County. As a result, it may be several months before we will know that the plan is acceptable. Nevertheless, we will incorporate the proposal into the proposed modification of the DRI and into the mitigation plan to be submitted with our permit applications to the ACOE, DER and SJRWMD. It will be a great help to us in connection with those permits if the County has indicated its agreement, at least in concept, to accept conveyance of the Turnbull Creek parcel subject to the proposed conditions.

We are very pleased to have the opportunity to present a plan that we feel will provide very significant long term benefits to the County as well as the environment.

Although it sometimes appears to the public that the St. Johns Harbour Project has been dormant since its approval in 1986, I know that you and the other County officials are aware of the intense level of activity that has taken place during that period. Of primary importance has been the permitting and acquisition of the right-of-way for the proposed interchange at I-95 and Nine Mile Road. The completion of the permitting process and acquisition of the right-of-way was a long and

Mr. R. Daniel Castle
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arduous task requiring the expenditure of over \$1.5 million. The developer is now on the verge of obtaining FDOT approval of 100% construction plans and is preparing a package for bid proposals from qualified contractors. We hope to start construction in the spring of 1991.

Also, the developer has invested a great deal of time, effort and money into the identification and verification by the agencies of the various wetlands jurisdictional lines. We have obtained verified lines from the ACOE and DER with regard to the Interchange Parcels. We are about to complete verification of the wetland lines on the Six Mile Creek Parcel from both of those agencies as well. Finally, we are working diligently with the SJRWMD to tie down its jurisdiction on the Interchange Parcels and expect to have that process completed in October.

Although I believe that the time period for commencement of construction under the MDO, IDO and PUD has been tolled by the delay in permitting of the Interchange, it would be very helpful if, in connection with review of the enclosed proposal, the County would extend the time for commencement of construction under the MDO and IDO to September, 1991.

Please let us know if additional information is needed to present the enclosed proposals to the Board. We look forward to working with you and the other members of the County staff in the coming months and appreciate your helpfulness and cooperation.

Sincerely,


John G. Metcalf

JGM/lw/824

cc: Leon Shimer
Board of County Commissioners
Jerry Napier
Jim Davidson