

RESOLUTION NO. 94-227

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, STATE OF FLORIDA
APPROVING A FINAL DEVELOPMENT PLAN
FOR JULINGTON CREEK PLANTATION DRI
PARCEL 18

WHEREAS, the Final Development Plan for Julington Creek Plantation DRI Parcel 18 has been fully considered after public hearing pursuant to Section 8-3-2 of the St. Johns County Zoning Ordinance; and

WHEREAS, it is found that:

- A. The request received favorable review and recommendation by the Planning and Zoning Agency at its meeting on November 17, 1994; and
- B. The request is both consistent with the Comprehensive Plan and compatible with development patterns in the surrounding area;
- C. The request is consistent with the requirements of Section 8-3-2 of the Zoning Ordinance and with the requirements of PUD Ordinance 93-43

THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. Pursuant to a request for approval of Julington Creek Plantation - Parcel 18 made by Atlantic Gulf Communities Corporation, in accordance with Section 8-3 of St. Johns County Zoning Ordinance, and subsequent review and approval by the St. Johns County Planning and Zoning Agency, the Final Development Plan attached hereto as Exhibit A relating to that portion of the PUD, Ordinance 93-43, is hereby approved in reliance upon, and in accordance with the representation and statements made herein and in the Final

Development Plan Narrative attached hereto as Exhibit B, the list of covenants and restrictions to be incorporated attached hereto as Exhibit C, and the executed indemnity agreement attached hereto as Exhibit D, letter dated November 9, 1994 from England-Thims & Miller, Inc. signed by J. Adam Ashbaugh and based on the above referenced findings which are hereby incorporated herein by reference.

Section 2. Except to the extent that they conflict with specific provisions of the approved development plan or PUD Ordinance, all building code, zoning ordinance, and other land use and development regulations of St. Johns County, including, without limitation, any Concurrency Management Ordinances and the St. Johns County Comprehensive Plan, as may be amended from time to time shall be applicable to this development, except modification to approved development plans by variance or exception shall be prohibited.

Unless the Board of County Commissioners demonstrates that compliance with the land development regulations is essential to the public health, safety or welfare, nothing in this section shall be deemed to: (a) supersede any applicable "grandfathering" or "vested rights" provisions contained in Florida law or that may be provided in any such future building code, zoning ordinance or other land use and development regulations; or (b) supersede any concurrency certificate or concurrency exemption determination made by the Concurrency Review Committee or the Board as such may be limited at the time of issuance. Furthermore, nothing in this section shall be deemed to constitute a waiver of the applicant's right to contest application of any such building code, zoning ordinance or other land development regulations as applied to this development under the Florida or United State Constitutions.

Section 3. The developer may not commence land clearing, site preparation or construction of any improvements within Parcel 18 until:

- a. Submission to the Engineering Department of satisfactory evidence that all required state and federal permits have been obtained, including, but not limited to United States Army Corps of Engineers Dredge and Fill Permit, St. Johns River Water Management District Wetlands Resource Permit, St. Johns River Water Management District Management and Storage of Surface Waters Permit and Florida Department of Environmental Protection Water and Sewer Connection Permits;
- b. Issuance of a land clearing permit pursuant to St. Johns County Ordinance No. 90-11;
- c. Review and approval of signed and sealed construction plans by the St. Johns County Engineering Department in compliance with Ordinance 86-4; and
- d. Compliance with all other applicable land use and development regulations of St. Johns County.

Section 4. All attachments included herein are incorporated herein and made a part of Resolution 94-227

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Barbara Ward
Chair

ATTEST: CARL "BUD" MARKEL, CLERK

By: Ima Paetle
Deputy Clerk

EXHIBIT B
WRITTEN TEXT

P. U. D. OFF. REC.
BOOK H PAGE 55

Atlantic Gulf Communities Corp. hereby submits, for approval by the St. Johns County Planning and Zoning Agency and the St. Johns County Board of County Commissioners, a final development plan (the "Final Development Plan") for Julington Creek Plantation Information Center (the "property"). The Final Development Plan consists of a 1-page map identified as Exhibit A to the Resolution (the "Map"), the legal description as shown on Exhibit A, this text identified as Exhibit B to the Resolution (the "Text"), and Indemnity Agreement identified as Exhibit C to the resolution. The Property is located wholly within that parcel of land zoned Planned Unit Development (PUD) pursuant to Ordinance 93-43. The area encompassed by this Final Development Plan is located within the Julington Creek Plantation PUD. It occupies Parcel 18 as shown on the approved Master Plan. Under the approved Master Plan, Parcel 18 may be used for all uses permitted within the Commercial General (CG) zoning classification of St. Johns County, including those permitted by exception. The proposed use of the property within this final development plan shall be professional and business offices. The total size of Parcel 18 is approximately 2.7 acres. Parcel 18 includes a 2.3 acre commercial tract, and a 0.4 acre open space tract. Only the building depicted within Phase I of Parcel 18 is proposed for construction with this final development plan. The future buildings (Phase II) shall be permitted and approved by a separate final development plan. The acreage included herein represents an increase of 1.0 acres from the approved P.U.D. Master Plan. As set forth in the Julington Creek Plantation PUD, the upland acreage shown on the Master Plan is based upon aerial interpretation of the wetland boundaries. The increase in Parcel 18 area is attributed to final wetland jurisdiction as established by survey and the U.S. Army Corps of Engineers. The total acreage of commercial designation within the PUD shall not exceed the limits as set forth on the PUD Master Plan.

Prior to commencement of land clearing, site preparation, or construction of any improvements depicted on the Map, the developer shall submit to the Engineering Department satisfactory evidence that all required state and federal permits have been obtained, including, but not limited to: (a) United States Army Corps of Engineers Dredge and Fill Permit, St. Johns River Water Management District Management and Storage of Surface Water Permit and Florida Department of Environmental Protection Water and sewer Connection Permits; (b) Obtain a land clearing permit pursuant to St. Johns County Ordinance No. 90-11; (c) Obtain approval of signed and sealed construction plans by the St. Johns County Engineering Department in compliance with Ordinance 86-4; and (d) Comply with all other applicable land use and development regulations of St. Johns County.

It is the applicants intent to comply with all landscaping requirements of St. Johns County. The applicant hereby reserves the right to slightly modify building locations, if necessary, in order to comply with landscaping requirements or to improve or add to the aesthetics of the landscape design.

P. U. D. OFF. REC.
BOOK H PAGE 56

8-4-1 Density of Development

The total ground area occupied by professional office buildings and structures within the Property shall not exceed 35 percent of the total ground area. There will be a maximum of 4,000 square feet of building space within Phase I of the 2.3 acre commercial tract. Square footage of the buildings within Phase II of the commercial tract shall be determined at the time of Final Development Plan submittal for that phase. Maximum square footage does not include balconies, porches, or covered walkways.

8-4-2 Open Space

Surrounding areas of jurisdictional wetlands to be preserved have been set aside as a part of the conservation easement recorded in O.R.B. 929, page 684-706, St. Johns County. These areas are outside of the boundaries of this Final Development Plan and will not be disturbed.

Parcel 18 will contain a pond and landscaped open space area depicted as Tract B on the map. This area will be used as a passive open space, and may include signage, landscaping, nature trails, and/or picnic areas.

Open space areas shall be maintained by the owner, his successor or assigns.

All of the above mentioned areas have been incorporated into the overall drainage system.

8-4-3 Waiver of Yard, Dwelling Unit, Frontage Criteria and Use Restriction

All development which is to occur within the Property will comply with the spirit and intent of the P.U.D. There will be no more than one building within Julington Creek Plantation DRI - Parcel 18 Phase I. The minimum setback requirements are as follows: front yard: 0', side yard: 0', and rear yard: 10'. Actual building size, location and shape of future buildings shall be determined at time of Phase II Final Development Plan submittal. All buildings will be built within Tract A of the property. The uses shall be professional and business offices, and will be consistent with the Commercial General (CG) zoning classification of St. Johns County.

All setbacks shall be measured from the exterior wall of the buildings to the applicable parcel boundary.

Temporary construction trailers may be used within the Property during the construction period (which shall be up to 24 months from the date of approval of this final development plan).

All construction activities associated with this Final Development Plan will comply with the Bald Eagle Habitat Management Plan Exhibit F of PUD Ordinance 93-43, as outlined in a letter from Michael M. Bentzien to Rhodes Robinson, dated February 8, 1994. All work will cease when eagles are observed at the nest between November and January .

There may be signs, fencing, landscaping and irrigation within the property owned by Atlantic Gulf, its assigns, or within right-of-way dedicated to the County. The maximum sign dimensions shall be 32 S.F. and shall not exceed 5 feet in height. The actual size and locations of signage shall be included in the right-of-way permit to be obtained prior to installation. Atlantic Gulf has agreed to install such signs, fencing, landscaping and irrigation in accordance with the terms and conditions hereinafter set forth and to indemnify and hold the County harmless from any claims, loss or damage arising from or in connection with the installation of such signs, fencing, landscaping and irrigation all as more fully set forth herein:

- a. The cost of installation of any signs, fencing, landscaping, irrigation and related equipment, whether installed on lands owned by Atlantic Gulf, or its assigns or on rights of way dedicated to the County, shall be solely paid by Atlantic Gulf, its assigns or any developer of the portion of Julington Creek Plantation who owns the tract of land on which the signs, fencing, landscaping and irrigation is to be located.
- b. The cost of maintenance, repair or replacement of any signs, fencing, landscaping and irrigation, whether installed on lands owned by Atlantic Gulf, its assigns or on rights of way dedicated to the County, shall be paid by Atlantic Gulf or its assigns. Atlantic Gulf or its assigns shall obtain and maintain liability insurance in connection with the signs, fencing, landscaping and irrigation which shall be in the minimum amount of \$100,000.00 per person and \$200,000.00 per occurrence and shall provide proof of such insurance of the Clerk of the Circuit Court, St. Johns County, Florida.

- c. Prior to the installation of any signs, fencing, landscaping, irrigation, and/or other structures or uses within County rights of way, Atlantic Gulf or the responsible entity shall submit an Application for a Right of Way Permit for review and approval from the Public Works Department of St. Johns County, Florida and a copy of the Planning and Zoning Department for filing with the Final Development Plan and current renewals filed annually.
- d. Prior to installation of any signs, fencing, landscaping and irrigation Atlantic Gulf or the owner of the tract of land on which the signs, fencing, landscaping and irrigation is to be installed shall apply for and receive a building permit from the Building Department of St Johns County, Florida.
- e. No signs, fencing, landscaping and irrigation shall be installed closer than twelve feet (12') from the edge of the pavement of the adjacent two (2) streets. No signs, fencing, landscaping and irrigation shall be installed so as to obstruct the field of vision of motorists or pedestrians along any adjacent roads, driveways or thoroughfares, whether paved or unpaved. In all cases, sight distance shall meet the requirements set forth in the Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, latest edition.
- f. Atlantic Gulf or its assigns shall maintain all signs, fencing, landscaping and irrigation installed in accordance herewith in good repair and condition.
- g. Atlantic Gulf or its assigns have agreed that they shall be solely liable and agrees to be solely liable for and shall indemnify, defend and hold St. Johns County harmless from any and all loss, damage, claim, action, suit, judgment, cost or expense for injury to persons, including death or damage to property, including destruction in any manner arising from or out of the installation, maintenance or failure to remain, use or existence of any and all signs, fencing, landscaping and irrigation installed within the County rights of way.

The maximum height of the structures within the Property shall be 35 feet.

8-4-4 Project Size

The PUD consists of approximately 4,150 acres. This Final Development Plan consists of 2.7 acres.

8-4-5 Support Legal Documents for Open Space

This section does not apply to this Final Development Plan, because the property within this parcel is zoned commercial and therefore all improvements and open space will be maintained by the fee simple title holder of this property.

8-4-6 Access

As geographically depicted on the Final Development Plan, the commercial tract is provided vehicular access via the public rights-of-way of Davis Pond Boulevard, which is dedicated to St. Johns County.

8-4-7 Privacy

Each dwelling unit within the PUD has been provided visual and acoustical privacy from the proposed commercial tract through the use of wetland conservation areas and buffer areas as depicted on the approved PUD Master Plan. There are no proposed dwelling units within 400 feet of this project.

8-4-8 Community Facilities

- a. None of the utility facilities serving the Property are proposed for dedication to St. Johns County; therefore, the provisions of subparagraph "a" are inapplicable.
- b. All requirements for off-street parking and loading set forth in Article 9 of the St. Johns County Zoning Ordinance are addressed specifically in sections 9-1-1 through 9-4-1 of this text.
- c. The Final Development Plan illustrates the anticipated traffic flow patterns. Sufficient space has been allowed to permit access for fire fighting equipment, furniture moving vans, fuel trucks, refuse collection, deliveries and debris removal. Locations of the existing fire hydrants serving the Property are shown on Exhibit A of the final development plan.
- d. All utilities serving the Property including telephone, power, cable television, and sewer and water lines will be installed underground. The signed and sealed construction plans shall show the location and design of the storm sewer facilities serving the property and the grading and topography of the site facilitating proper drainage of storm waters and preventing erosion.

- e. Specifications for all streets and roadways depicted on the Final Development Plan shall conform to the rules and regulations adopted by the St. Johns County Board of County Commissioners in Ordinance Number 86-4.

9-1-1 Drainage

The overall drainage plan for the property is designed to prevent damage to abutting parcels, public streets, and alleys and is geographically depicted on the Final Development Plan. Specific drainage plans for building will be consistent with this overall drainage plan

Detailed drainage plans demonstrating compliance with requirements of Ordinance 86-4 and the St. Johns County Comprehensive Plan shall be included within the signed and sealed construction plans.

The construction plans must be reviewed and approved by St. Johns County Engineering Department prior to commencement of land clearing, site preparation or construction.

All necessary easements for drainage shall comply with the requirement of Ordinance 86-4.

9-1-2 Separation from Walkway and Street

Parking spaces will be physically separated from walkways by landscaped areas or curb and gutter.

9-1-3 Entrances and Exits

The location and design of the entrances and/or exits to all streets will be in accordance with County specifications.

9-1-4 Interior Drives

As shown on the Final Development Plan, interior drives within the offstreet parking area will be a minimum of 24 feet wide, thus facilitating two-way traffic and 90 degree angle parking.

9-1-5 Marking of Parking Spaces

As shown on the Final Development Plan, there will be one parking area consisting of more than ten spaces within Phase I. Each space will be so designated by markings and physical separation of parking areas, entrance roads and structures will be configured as delineated on Exhibit A. Total number of handicap and standard spaces shall meet or exceed the number required by St. Johns County.

9-1-6 Lighting

Lighting within the property will be placed by the owner and shall meet or exceed the minimum St. Johns County requirements for commercial areas.

9-1-7 Screening

Proposed improvements are separated from adjoining land uses by jurisdictional wetland conservation area as recorded in ORB 929, pages 684-706. Land zoned for residential development is separated from the proposed commercial development area by more than forty feet.

9-2 Location

The required off-street parking facilities will be located upon the same parcel of land they are intended to serve.

9-3-1 Off-Street Parking; Numbers Required

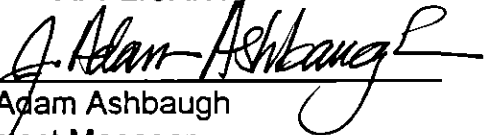
A total of 27 standard parking spaces and 2 handicap spaces are provided within Phase I of the property. This total exceeds the minimum of 14 spaces which are required by Subsection O of 9-3-1 of the Zoning Ordinance. The extra parking spaces will be allocated to Phase II of the development.

9-4-1 Off-Street Loading Requirements

This section does not apply since the aggregate floor area of the building within Phase I is less than 5,000 square feet.

P. U. D. OFF. REC.
BOOK H PAGE 62

APPLICANT

by: 
J. Adam Ashbaugh
Project Manager
England, Thims & Miller, Inc.
(Agent)

The following provisions of the Amended and Restated Declaration of Covenants and Restrictions of Julington Creek Plantation Owner's Association recorded in Official Records Book 1004, Page 1823 of the public records of St. Johns County, Florida, address the legal requirements for covenants and restrictions as set forth:

- a. The Covenants shall provide for conveyance of the title of the common property to an ownership by the appropriate property owners association which shall be a duly constituted and legally responsible community association.

Article IV, Section 2 provides that "Developer may retain legal title to the Common Property until such time as it has completed improvements thereon and until such time as, in the opinion of the Developer, the Association is able to maintain the same, but, notwithstanding any provisions herein, the Developer hereby covenants, for itself, its successors and assigns that subject to the foregoing, it shall convey the Common Property to the Association not later than Turnover, free and clear of all monetary liens and encumbrances except for real property, taxes for the year in which the conveyance takes place, covenants, conditions, restrictions of record and any easements granted or reserved by the Developer pursuant to Section IV of this Agreement. Upon such conveyance the Association shall be obligated to accept such conveyance and any such conveyance shall be as is." Julington Creek Plantation Property Owners' Association is a duly constituted property owners association filed with the Secretary of State of Florida.

- b. The use of the Common Property is granted to the owners of the Association. According to Article IV, Section 1, the members of the Association, their guests, invitees and mortgagees, all of which have the right and easement of enjoyment in and the Common Property for all proper and reasonable purposes and such easement shall be appurtenant to and pass with title to every Lot and Living Unit.
- c. Pursuant to the provisions of Article I, Section 1(b), the covenants shall assign responsibility for the management and maintenance of the Common Property to the proper property owners association. Pursuant to Article IV, Section 2, the Developer retains title to the Common Property until all improvements have been completed and the Association is in the position to maintain it. Accordingly, upon conveyance of the Common Property to the Association, it had the obligation to maintain that property. This is consistent with the definition of Common Property set forth in Article I, Section 1(b).

- d. The covenants shall place responsibility for enforcement of the covenants upon the appropriate property owners association. Pursuant to the provisions of Article VII(4), the enforcement of this Amended Declaration may be made by the Association, the Developer or any owner and shall be by a proceeding at law or in equity against such person or persons violating or attempting to violate any covenant or restriction, either to restrain the violation or to recover damages and against the land to enforce any lien created by these covenants and restrictions.
- e. The Declaration shall permit the subjection of each Lot to an assessment for a proportionate share of maintenance costs.

Article V, Section I provides that the Developer for each Lot or Living Unit owned by it hereby covenants and each Owner of each Lot or Living Unit by acceptance of a deed or other conveyance, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association all assessments levied by the Association.

All of the foregoing provisions are set forth in the Restated and Amended Declaration. As each new subdivision is brought on line it is subjected to these Restated Covenants and also to additional covenants unique to that particular subdivision pursuant to a Supplemental Declaration.

EXHIBIT D

INDEMNITY AGREEMENT

P. U. D. OFF. REC.
BOOK H PAGE 65

THIS AGREEMENT is made this 19th day of August, 1994, by and among ATLANTIC GULF COMMUNITIES CORPORATION, a Delaware corporation authorized to do business in Florida ("Atlantic Gulf"), JULINGTON CREEK PLANTATION PROPERTY OWNERS'S ASSOCIATION, INC., a Florida not for profit corporation ("Association") for the benefit of THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA ("County").

IN CONSIDERATION of the approval of the County of that certain Resolution No. 93-____, permitting the installation of certain signs, landscaping, irrigation and fencing all on the terms and conditions more fully set forth in the Resolution, Atlantic Gulf and the Association hereby agree to be solely liable for and shall indemnify, defend and hold St. Johns County harmless from any and all loss, damage, claim, action, suit, judgement, cost or expense for injury to persons, including death or damage to property, including destruction in any manner arising from or out of the installation, maintenance or failure to repair, use, or existence of any and all signs, fencing, landscaping and irrigation installed with the County rights of way, in accordance with the Resolution.

IN WITNESS WHEREOF, the undersigned set their hands and seals as of this 19th day of August, 1994.

ATLANTIC GULF COMMUNITIES CORPORATION

By: _____

J. Thomas Gillette, III
Vice President

JULINGTON CREEK PLANTATION PROPERTY OWNERS' ASSOCIATION, INC.

By: _____

J. Thomas Gillette, III
President

STATE OF FLORIDA
COUNTY OF ST. JOHNS

P. U. D. OFF. REC.
BOOK H PAGE 66

The foregoing instrument was acknowledged before me this 19th day of August, 1994, by J. Thomas Gillette, III, Vice President of Atlantic Gulf Communities Corporation, a Delaware corporation authorized to do business in Florida, on behalf of the corporation. He is personally known to me and did not take an oath.

Sharon Hudson
Print Name: Sharon Hudson
Notary Public, State of Florida
Commission Number: CC167354



SHARON HUDSON
My Comm. Exp. 12-11-95
Bonded By Service Ins. Co.

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 19th day of August, 1994, by J. Thomas Gillette, III, President of Julington Creek Plantation Property Owners' Association, Inc., a Florida corporation, on behalf of the corporation. He is personally known to me and did not take an oath.

Sharon Hudson
Print Name: Sharon Hudson
Notary Public, State of Florida
Commission Number: CC167354



SHARON HUDSON
My Comm. Exp. 12-11-95
Bonded By Service Ins. Co.



England-Thims & Miller, Inc.

Consulting & Design Engineers
3131 St. Johns Bluff Road S., Jacksonville, FL 32246
Tel: (904) 642-8990 Fax: (904) 646-9485

Principals

James E. England, P.E., Pres.
Robert E. Thims, Exec. V.P.
Douglas C. Miller, P.E., Exec. V.P.
N. Hugh Mathews, P.E., Exec. V.P.

November 9, 1994

St. Johns County Planning and Zoning Agency
St. Johns County Courthouse
P.O. Drawer 349
St. Augustine, Florida 32084

Reference: Julington Creek Plantation - Parcel 18
ET&M No. E94-65

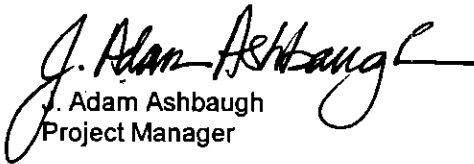
P. U. D. OFF. REC.
BOOK H PAGE 67

Dear Planning and Zoning Agency members:

The ownership of the property shown within Phase I of the above referenced Final Development Plan shall not be subdivided. All common property and open space areas shall be maintained by the Owner, as stated in the Final Development Plan Written Text (Exhibit B). Any common property or open space areas shall be readdressed within the Phase II Final Development Plan.

Respectfully submitted,

ENGLAND, THIMS & MILLER, INC.


J. Adam Ashbaugh
Project Manager

JAA:cl

cc: Tom Gillette - AGC
Linda Kane - Holland & Knight

STATE OF FLORIDA
COUNTY OF ST. JOHNS

P. U. D. OFF. REC.
BOOK H PAGE 68

I, CARL "BUD" MARKEL, CLERK OF THE CIRCUIT COURT, Ex-officio, Clerk of the Board of County Commissioners of St. Johns County, Florida,

DO HEREBY CERTIFY that the foregoing is a true and correct copy of the following:

RESOLUTION NO. 94-227

adopted by the Board of County Commissioners of St. Johns County, Florida at a regular meeting of said Board held December 13, 1994

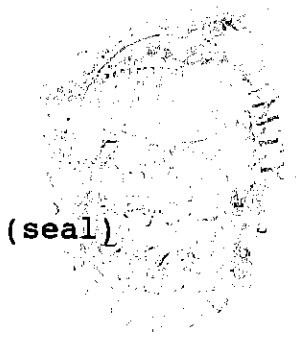
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ST. JOHNS COUNTY
95 JAN -3 AM 11:09
CLERK OF CIRCUIT COURT
Carl "Bud" Markel

as the same appears of record in the office of the Clerk of the Circuit Court of St. Johns County, Florida, of the public records of St. Johns County, Florida.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 30th day of December, 1994.

CARL "BUD" MARKEL,
CLERK OF THE CIRCUIT COURT
Ex-officio Clerk of the Board of County Commissioners of St. Johns County, Florida

By: Patricia DeGrande
Patricia DeGrande, Deputy Clerk



(seal)