

ST. JOHNS COUNTY, FLORIDA
ORDER
REZONING/EXCEPTION/VARIANCE

NAME OF APPLICANT

APPLICATION NUMBER

Jax Liquors, Inc. and
St. Johns Trading Company, Inc.

E-86-056

**DECISION OF
COUNTY COMMISSION**

GRANTED

**GRANTED WITH
CONDITIONS**

DENIED

Exception for a drive-in window in connection with package store and sale of alcoholic beverages, bar or tavern for on-premises consumption of alcoholic beverages on land in Block 29 Menendez Park and section 28, township 7 south, range 30 east, fully described in application E-86-056

Conditions: See attached EXHIBIT "A" TO ORDER OF THE PLANNING AND ZONING AGENCY FOR JAX LIQUORS, INC. AND ST. JOHNS TRADING COMPANY, INC.

*See Attached

DATE OF COMMISSION ACTION: October 11, 1988

**BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA**

By: Lawrence O. Nailby
Chairman

ATTEST: CARL "BUD" MARKEL, CLERK

BY: Lynn M. McDonald
DEPUTY CLERK

(Pursuant to St. Johns County Zoning Code, Section 11-9-5b: failure to exercise an exception or variance by commencement of the use or action approved thereby within one year, or such longer time as approved by the Board, shall render the exception or variance invalid and all rights granted thereunder shall terminate)

EXHIBIT "A" TO ORDER OF THE PLANNING AND ZONING
AGENCY FOR JAX LIQUORS, Inc. and ST. JOHNS
TRADING COMPANY, Inc.

1. Subject to State DOT approval and requirement regarding location, design and improvements at final access/egress points to SR3 , AlA and SR312.
2. Compliance with supplemental County requirements at access/egress points subject to State DOT approval.
3. Review and approval of access points by county prior to issuance of building permits.
4. Accel/decel lanes as coordinated with DOT at access points.
5. The validity of this Order is contingent upon final ruling by the Board of County Commissioners that 1957 Resolution, as recorded in Book O, page 159, public records of St. Johns County, Florida does not prevent the granting of this exception.

EXHIBIT "B" TO ORDER OF THE PLANNING AND ZONING AGENCY
FOR JAX LIQUORS, INC., AND
ST. JOHNS TRADING COMPANY, INC.,
DATED JUNE 19, 1986, AND AFFIRMED
BY THE BOARD OF COUNTY COMMISSIONERS OCTOBER 11, 1988

1. No bar or tavern for on-premises consumption of alcoholic beverages shall be a part of this exception.
2. No cups with ice will be sold by the store.
3. The package store with drive-in window in connection therewith shall be constructed in accord with the architectural features as shown on rendering marked Exhibit "4" of Applicants, JAX LIQUORS, INC., and ST. JOHNS TRADING COMPANY, INC., and filed before the St. Johns County Commission September 27, 1988.

Submitted by Attorney H. Upchurch BCC Meeting 10/11/88

adopting Conditional Ordinance No. 88-64 rezoning lands from CG with conditions to CG with different conditions.

(10/11/88 - 8 - 2.3126)

Hearing on R-88-038, Sofran Company, Mr. Robert Rouleau represented by Prosser, Hallock and Kristoff, Inc. located on west side of U.S. #1 South, south of Jack Wilson Chevrolet rezoning from OR to CG with conditions for the location of shopping center. Report of the Planning & Zoning Agency recommending approval with conditions was received. Proof of publication of notice of public hearing to consider passage of an ordinance was received having been published in The St. Augustine Record on September 9, 1988; upon motion by Waldron, seconded by Brubaker, carried 5/0, was ordered filed. Court Reporter Sherrie Smith was present recording. Attorney John Bailey, Jr., 780 N. Ponce De Leon Blvd. representing Sofran Company was present requesting approval. Attorney Bailey explained the parcel is a 22 acre parcel next to Jack Wilson Chevrolet and the Sofran Company proposes to develop a shopping center; the proposed conditions were summarized and accepted by Attorney Bailey. Motion by Waldron, seconded by Brubaker, carried 5/0, adopting Conditional Ordinance No. 88-65

(10/11/88 - 8 - 3.0075)

Hearing on R-88-026, William and Carol Gormley located S.R. #16, north side, east of Fox Welding rezoning from OR to CN with conditions for the use of cleaning service business, lot size currently in violation of OR (present classification). Report of the Planning & Zoning Agency recommending approval with conditions was received. Proof of publication of notice of public hearing to consider passage of an ordinance was received having been published in The St. Augustine Record on September 9, 1988; upon motion by Waldron, seconded by Brubaker, carried 5/0, was ordered filed. Attorney Michael Traynor, 22 Cathedral Place representing the applicant was present requesting approval. Proposed conditions were read and accepted by Attorney Traynor. Motion by Waldron, seconded by Brubaker, carried 5/0, adopting Conditional Ordinance No. 88-66.

(10/11/88 - 8 - 3.0165)

Continued hearing on appeal by Broudy Brothers, Inc. of Exception E-86-056 Jax Liquors, Inc. and St. Johns Trading Company. Exception for a drive-in window in connection with package store and sale of alcoholic beverages, bar or tavern for on-premises consumption of alcoholic beverages on land in Block-29 Menendez Park and Section-28, Township-7 South, Range-30 East, fully described in Application E-86-056. Proof of publication of notice of public hearing for the purpose of appeal to the Board of County Commissioners for action taken by St. Johns County Planning & Zoning Agency was received having been published in The St. Augustine Record on September 8, 1988; upon motion by Waldron, seconded by Brubaker, carried 5/0, was ordered filed. Court Reporter Sherrie Smith was present recording. Chairman Hartley submitted into the record three letters in opposition. Attorney Linda Bryan, with Miller, Shine & Bryan, 97 Orange Street representing Broudy Brothers, Inc. indicated this is an appeal of a zoning exception granted by the Planning & Zoning Agency. Ms. Bryan requested a procedure be established that would apply throughout the presentation and requested all persons speaking or introducing facts be sworn and that she be allowed if necessary to ask them additional questions. Ms. Bryan also requested she be allowed to retain the three letters introduced into the record by Chairman Hartley; Sisco requested these letters be marked by Ms. Bryan as County Records and returned to the Clerk to become part of the record. Ms. Bryan marked the letters as follows: County Record #1 - letter dated September 25, 1988 from Patricia W. Glenn, County Record #2 - Open Letter To The St. Johns County Commission dated September 27, 1988 from Joyce Rogero, County Record #3 - Composite consisting of letter dated September 26, 1988 from Peter J. Lardner with attached letter dated September 21, 1988 from Thomas C. Emmel and County Record #4 - letter dated October 10, 1988 from Ethel DeVito with attached letter to Ms. DeVito dated September 27, 1988 from Joseph Stephenson, Regional Planning Administrator FL DOT. Sisco clarified contents of the Board packet regarding this item as follows: Order of the St. Johns County Planning & Zoning Board E-86-056 dated June 19, 1986 with Exhibit "A", Order Granting Plaintiff's and Denying Defendant's Motions for Summary Judgment Case No. 86-941 CA dated May 1, 1987 pages 1 through 12, copy of Agenda listing Item #6 as Hearing on resolution repealing the 1957 County resolution prohibiting sale of alcoholic beverages . . . , copy Pages-6 & 7 St. Johns County Commissioners minutes dated 7/22-23/86, copy Pages-9 & 10 St. Johns County Commissioners minutes dated 8/12-19/88, copy Page-8 St. Johns County Commissioners minutes dated 8/9/88 and Proof of Publication No. L346 dated 9/8/88; Sisco stated this is all that is before the record right now. Attorney Bryan at this time addressed the Board explaining the circumstances which have led to the appeal presently before the Board today; she submitted the following items as exhibits and explained same:

- 1) Broudy Brothers Exhibit #1 - Copy of the definition of "Exception" from the St. Johns County Code, Page-60.

- 2) Broudy Brothers Exhibit #2 - Order of the St. Johns County Planning & Zoning Board dated June 16, 1983 with attachments as follows: copy of minutes from Planning & Zoning Board meeting dated 6/16/83 and Application No. E-83-49 comments.
- 3) Broudy Brothers Exhibit #3 - Transcript of Hearing held before the St. Johns County Planning & Zoning Agency on June 19, 1986 regarding E-86-056, Jax Liquors, Inc.
- 4) Broudy Brothers Exhibit #4 - Staff Recommendations regarding E-86-056, Jax Liquors, Inc.
- 5) Broudy Brothers Exhibit #5 - 1987 St. Johns Traffic Count from St. Augustine & St. Johns County Chamber magazine 1988-89 season Page-12.
- 6) Broudy Brothers Exhibit #6 - Tredinick Properties Conceptual Plan-I with attachments as follows: "Distance Between Proposed Site of Jax Liquors and Currently Existing Broudy's" and Vicinity Map of the area in question.
- 7) Broudy Brothers Exhibit #7 - Map of Anastasia Island-St. Johns County showing establishments promoting sale of alcoholic beverages with attachment, "Legend For Map Of Anastasia Island/Location Of Bars And Liquor Stores".

Attorney Bryan commented on traffic concerns in the area, zoning principals and liquor establishments being in close proximity. (3.1205) Barry Broudy sworn by Sisco explained at the request of Ms. Bryan the procedure he used to measure the distance between the proposed site of Jax Liquors and the currently existing Broudy's. Referring to Broudy Brothers Exhibit #6, Barry Broudy stated the approximate distances were measured in terms of a man's typical footstep (2 1/2 feet) and demonstrate that no proposed entrance to the Jax Liquor's establishment is further than 1,000 feet from the Broudy's front entranceway as measured along the shortest route of normal pedestrian travel. Ms. Bryan further requested Barry Broudy explain Broudy Brothers Exhibit #7; Broudy explained he traveled Anastasia Island in his car from the foot of the Bridge of Lions to the Crescent Beach Bridge to count the establishments promoting the sale of alcoholic beverages as their primary business. Broudy stated he counted eleven within a 9.6 mile distance; ten of the establishments are located within the northern half of the Island within a distance of a little more than five miles. Ms. Bryan requested the right to rebut following Jax Liquors presentation and submitted back into the Record County Record #1 through #4. Citizens present speaking against the Exception and sworn by Sisco were: (3.1714) Pete Dodson, 3100 S.R. A1A representing the City of St. Augustine Beach read Resolution No. 88-3 recently passed by the City of St. Augustine Beach and submitted same into the Record. (3.1863) Karen Lewis, 11 Contera Drive read letter and submitted same. (3.1924) Benjamin Crystal, 25 Surf Drive. (3.2170) Dorothy Miles, 7312 A1A South. (3.2245) Georgie Altenbach, 5 Park Terrace Drive. (3.2360) Henry Rosenthal, no address given. (3.2406) Jennifer Martincak, 34 Park Terrace Drive representing Youth for St. Johns County read memo dated 9/25/88 from Patricia W. Glenn (Please note; this memo was only read into the Record not submitted into the Record.). (3.2505) Valerie Kroll, 712 Mickler Road. and (3.2655) Hugh Mercer, no address given. At this time Attorney Hamilton Upchurch representing Jax Liquors, Inc. and St. Johns Trading Company, sworn by Sisco, requested all official documents pertaining to the case of St. Johns County versus Jax Liquors, Inc. Case No. 86-941CA-A and the Fifth DCA Case No. 87-1726 be incorporated by reference into the Record. Attorney Bryan objected to this request on the basis of materiality irrelevancy; Sisco recommended to the Chairman the objection be sustained. Attorney Upchurch submitted on behalf of Jax Liquors, Inc. the following items as exhibits and explained same:

- 1) Jax Exhibit #1 - Aerial Photograph of the 3.27 acres in question.
- 2) Jax Exhibit #2 - General Site Plan for the area in question.
- 3) Jax Exhibit #3 - Diagram of traffic movements both on and off the site.
- 4) Jax Exhibit #4 - Artist concept of the proposed Jax Store.
- 5) Jax Exhibit #5 - Letter dated October 16, 1974 from H. L. Ingerman, Permit Engineer, FL DOT with intersection layout attached.
- 6) Jax Exhibit #6 - Composite consisting of letter dated September 26, 1988 from James E. McMillan, Sheriff City of Jacksonville; letter dated September 23, 1988 from George H. Thornton, Chief of Police City of St. Augustine; letter dated December 27, 1985 from Marianne Jordan, Coordinator Ministry with the Separated, Divorced & Widowed; letter dated January 31, 1986 from Marianne Jordan, Coordinator Ministry with the Separated, Divorced & Widowed; letter dated January 5, 1987 from Allan D. Gieselman, Principal Saint Joseph Academy; letter dated May 7, 1987 from Marianne Jordan, Coordinator Ministry with the Separated, Divorced & Widowed and excerpt from The St. Augustine Record entitled "Jax Gets Beautification Honors For October".

Attorney Upchurch clarified the circumstances which have led to this appeal by Broudy Brothers of an Order by the Planning & Zoning Agency which granted the Exception in June, 1986. Mr. Upchurch introduced Michael J. Saylor, Traffic Engineer with BHR Planning Group. Mr. Saylor, sworn by Sisco and referencing Jax Exhibits #2 through #4 discussed the proposed site plan along with the traffic situation and proposed solutions to same. Mr. Saylor responded to questions from the Board, Attorney Upchurch and Attorney Bryan. Attorney Upchurch offered three additional conditions as reflected on Exhibit "B" to Order of the Planning & Zoning Agency for Jax Liquors, Inc. dated June 19, 1986 and affirmed by the Board of County Commissioners October 11, 1988. Upchurch concluded the operation of a Jax Liquor Store on the site in question is not in opposition to the Comprehensive Plan but conforms with the plan and other uses in the general area. At this time the item was brought back to the Board. Discussion followed regarding traffic problems, current zoning of the area in question and the Ordinance regulating the distance between liquor establishments to 3,000 feet. (4.2875) John Steven Kling, 4250 N. Coastal Highway, unsworn statement, spoke in support of Jax Liquors. Motion by Lydon, seconded by Bailey, with roll call vote:

Waldron	Yes
Bailey	Yes
Lydon	Yes
Brubaker	No
Hartley	Yes

carried 4/1, to overturn the Zoning Board and deny the Exception due to the fact in relationship to the neighborhood it would not promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare of the community.

(10/11/88 - 10 - 4.3585)

Napier distributed a synopsis of St. Johns County Zoning Ordinance regulations relative to height of buildings and commented on same. Discussion followed regarding the north coastal area and limiting height to 35-feet either through rezoning certain properties, establishing an overlay district or modifying certain districts. The procedure required to ensure a 35-foot height limit in the coastal zone between the ocean and the intercoastal was discussed. Chairman Hartley left the meet at this time and Vice Chairman Waldron took over. Citizens commenting were: (5.0260) David Bruner, Pope Road and (5.0670) Harold Baker, 4240 Coastal Highway. Inquiries from developers interested in the height limitation in the coastal area were mentioned; staff was instructed to inform all persons making inquiries the Board is presently considering limiting height to 35-feet throughout the coastal area. Staff suggested if the Board is considering limiting height in the coastal area on the basis of public safety, concerns over hurricane evacuation and fire safety that the coastal area be defined and an advertisement be published advising this possibility. It was the consensus of the Board staff should continue to pursue this issue to ensure a 35-foot height limit in all zoning areas in the coastal zone from Duval County through to Flagler County and from the Intercoastal to the Atlantic with abilities to come in for exceptions.

(10/11/88 - 10 - 5.0780)

Discussion regarding an emergency ordinance which would authorize the Board to expend County funds to educate the public as to the reasons why it is necessary and in the best interests of the County for the County electorate to approve the issuance of general obligation bonds to finance the construction of additional County jail and criminal justice facilities at the bond referendum election scheduled for November 8, 1988. Waldron reported he has had some commitments from groups who would be willing to contribute to informing the public on this bond issue which should cover the costs. Discussion followed. It was stated these individuals would need to open a special account and register as an issue group. It was the consensus of the Board to take no action on this emergency ordinance pending possible funding from volunteers.

(10/11/88 - 10 - 5.0958)

Motion by Brubaker, seconded by Bailey, carried 4/0 with Hartley absent, setting the initial public hearing for the paving of Howard Place for October 25, 1988 at 10:30 a.m.

REPORTS:

- 1) Amended Order No. 20017-A issued 9/20/88 regarding Docket No. 870980-WS, Application of St. Augustine Shores Utilities.

CORRESPONDENCE:

- 1) From St. Johns River Water Management District forwarding copies of Resolution No. 88-18, adopting the Tax Rate and 88-19, adopting the annual budget dated 9/29/88.