

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

NAME OF APPLICANT

A1A North and Mickler Road Intersection
c/o Hamilton D. Upchurch
780 N. Ponce de Leon Boulevard
St. Augustine, Florida 32084

APPLICATION NUMBER

Major Modification to
R-PSD-84-27 (known
as David Sloan PSD)

**DECISION OF
COUNTY COMMISSION**

GRANTED

**GRANTED WITH
CONDITIONS**

DENIED

*See Attached

DATE OF COMMISSION ACTION: July 11, 1989

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

BY: 
Chairman

ATTEST: CARL "BUD" MARKEL, CLERK

BY: 
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)

(7/11/89 - 8 - 3.0013)

Hearing on PV-89-001/Catherine Selhorst and George Spohrer, rezoning of lands in the Ponte Vedra Zoning District from R-1-C Single Family to R-3 Multiple Family-semi-commercial; to operate a Montessori school on the site, located east side of A1A North-Ponce de Leon Boulevard, north of Corona Road (210). Proof of publication of notice of hearing on PV-89-001 was received, having been published in The St. Augustine Record on June 1, 1989; upon motion by Brubaker, seconded by Bailey, carried 4/0, Waldron was absent, was ordered filed. Catherine Selhorst, 76 Tipton Way North, passed out a brochure and map of the proposed site of the Montessori School, followed by a presentation outlining her reasons for the need of this type of school at this particular location. Bailey asked what is the full area to be fenced in to which Selhorst replied a 1/2 acre with 75 to 100 students. Maguire stated there are two issues this item could be split in: 1) the application being in violation of the Comprehensive Plan; and 2) the rezoning. George Spohrer, commented that the citizens of Ponte Vedra both want and need this type of facility and submitted a map for the record. Considerable discussion followed. Glenda M. Ahern, 9440 Preston Trail West, spoke in favor of the rezoning and submitted to the Clerk's Office approximately 135 petitions in favor of the rezoning as well. Discussion followed. Marie Lang, 4006 Long Pond Place, spoke in favor of the rezoning. Carol Gottio, 2005 Palmetto Point Drive, spoke in favor of the rezoning. I. G. Peters, 233 Pablo Road, gave a presentation in behalf of the Ponte Vedra Zoning Board, to which he is a member, in opposition to the rezoning due to the fact that this type of school should not be located in a residential area as this school is a business for profit - a private school supported by the people who send their children to the school. Peters referred to a map on display during his presentation. Peters emphasized that the Ponte Vedra Zoning Board has nothing against this type of school or any other type of school; however the issue is should this particular piece of property be rezoned. Through presentation, Peters brought to the fore this application is in conflict with the Comprehensive Plan (pages 124, 130, 135 & 136 and 141 of the Comprehensive Plan). Discussion followed. Charles "Jack" Holbrook, 514 Ponte Vedra Boulevard, submitted a drawing which focuses in on the immediate area in question. Holbrook spoke in opposition to the rezoning due to the fact that the property or house values in and around this parcel would depreciate should commercial enterprises intrude into the area. Discussion followed. Bob Cameron, 10 Lake Terrace, President of the Ponte Vedra Community Association commented in opposition to the rezoning. George Estes, 545 LeMaster Drive, submitted a petition with 85 signatures in opposition to the rezoning. As stated in the opening remarks of the petition this rezoning would be a flagrant example of spot zoning, in the unanimous opinion of the County Planning and Zoning Agency, would violate the County's Comprehensive Plan. Mary Kohnke, 29 South Roscoe Drive commented in opposition to the rezoning. H. G. Robinson, 9615 Preston Trail West, spoke in opposition to the rezoning. Discussion followed. Herold stated he has a problem with the application as it is spot zoning and he is totally opposed to rezoning residential to commercial anywhere in the county. Bailey spoke in opposition to the rezoning as the 1/2 acre would be too restrictive to accommodate 75-100 children in a fenced in area. Maguire suggested the BCC address the issue as to whether or not this application conforms to the Comprehensive Plan. Upon motion by Herold, seconded by Brubaker, carried 4/0, Waldron was absent, that the application does not comply with the Comprehensive Plan. Spohrer thanked the BCC for their consideration and requested a waiver of the rule so that the application can be resubmitted when the modifications to the comprehensive land plan have been completed. Upon motion by Herold, seconded by Bailey, recommending denial of the request for the application to be resubmitted when the modifications to the comprehensive land plan have been completed. Spohrer stated that he was advised by Waldron that this was a permissible request and Spohrer said that Waldron said in his absence he would recommend that the applicants request this. Maguire suggested the Commissioners revote on the issue as the last vote was not stated; upon motion by Herold, seconded by Bailey, carried 4/0, Waldron was absent to deny Spohrer's request for waiver of the one year time limit as the comprehensive plan will not be in place for at least 2 years. (3.2184) Bailey submitted letters in favor of as well as in opposition to the rezoning. (3.2191) Conn stated that Napier suggested for the purposes of the record the BCC has found the proposed zoning is in conflict with the comprehensive plan, therefore the property could not be rezoned to R-3, but for the sake of the record it would be appropriate to make a motion that the rezoning itself be denied. Upon motion by Herold, seconded by Brubaker, carried 4/0, Waldron was absent, to deny the rezoning request based upon incompatibility with the comprehensive plan.

(7/11/89 - 9 - 3.2229)

Hearing on Major Modification to R-PSD-84-27/Ordinance No. 84-52, extension of schedule of development; represented by Hamilton D. Upchurch; located at A1A North and Mickler Road intersection. Court Reporter was Present. Proof of

publication of notice of hearing on Major Modification to R-PSD-84-27 was received, having been published in The St. Augustine Record on June 10, 1989; upon motion by Brubaker, seconded by Bailey, carried 4/0, Waldron was absent, was ordered filed. Hamilton Upchurch gave a presentation, representing Prosperity Bank and Huntley Jiffy Stores, Inc. Upchurch asked that Commissioner Bailey voluntarily disqualify herself as having a conflict of interest in this particular application as she demonstrated this by appearing last Thursday at the PZA hearing on this issue and took a very dominant role in the opposition of this issue. Bailey asked for a ruling from Attorney Conn. (3.2349) Conn reported that the statute provides what is the basis for a conflict of interest and a previous statement in public by a commissioner in opposition to a zoning matter or even actively making statements or testifying at another proceeding of the Zoning Board against it, would not constitute a conflict of interest under the terms of the statute. In fact, Conn felt that for Commissioner Bailey to abstain or disqualify herself would be inappropriate on that basis. The only proper basis for abstaining or refusing to participate would be if the matter somehow inured to her personal financial pecuniary gain, which is not the case. However, there is no legal basis for abstaining in this case. Discussion followed. Upchurch stated that one of the objections at the previous hearing to this application was an onsite sewer plant or septic tanks. One of the conditions was that there would not be an onsite septic tank or sewer plant but would hook into some private system or a public system. The applicant was under the impression, when asking for the extension of time previously that public water and public or private sewer systems would be available at the site. Water is available, but the sewer is not yet available. Upchurch requested that applicant retain this rezoning by extending the development time as they feel that at some point during the year, sewer would be available. Discussion followed. Herold took issue as there may be an environmental issue due to the placement of fuel tanks so close to an environmentally delicate area (Guana Basin). Discussion followed. Bailey felt there has been an illegal fill in this area. Discussion followed. Upon motion by Herold, seconded by Bailey, carried 3/1, Brubaker dissenting, Waldron was absent, to deny the major modification to R-PSD-84-27/Ordinance No. 84-52, extension of schedule of development.

(7/11/89 - 9 - 4.0307)

Final Plat approval for Moultrie Wells Subdivision submitted by Scott Maguire. Scott Maguire, 3629 Fort Page Circle(?) request final plat approval for Moultrie Wells. Napier stated the plat is in conformance with all the staff requirements, has had the approval of the Health Department, and 911 Task Force. Maguire reported to Scott Maguire that none of the Commissioners have had an opportunity to review this as it was late in coming in and questions whether or not staff has had time in giving it a proper review as well. And if satisfactory review has not taken place by either staff or commissioners, Maguire stated he will ask for a continuance. Napier reported that it has been the policy of this Board not to have an item placed on the agenda until all things have been complied with and the mylars are to be in the Clerk's Office at least 3 working days prior to the Board meeting and this has not occurred. Napier did receive copies of the plat this morning. Discussion followed. Herold stated he would feel more comfortable if this issue is continued. Discussion followed. Bailey stated there is more than 3 dwelling units per acre and septic tanks will be used. Scott stated there are 12,000 square feet, so this is more than 3 per acre which is in conjunction with the Health Department Regulations for septic tanks. Joseph Boles, 4 Tremerton Street, representative of partnership stated the conditions on the zoning require less than 30 units and the lots were to be no smaller than 10,800, those are 12,000. Mike Poles (?) General Partner of the subdivision asked for approval of the final plat as he is under a time restraint. Discussion followed. Cliff Petitt commented. Brubaker stated that at some point these homes will be sold off to private individuals and could not understand how the county could see all the deed restrictions. This would be a nightmare to keep up with this, Brubaker felt. Discussion followed. Conn stated Sisco has reviewed the plat and prepared a resolution approving the plat and setting a construction bond and warranty bond. Brubaker stated that in view of the fact there was a misunderstanding that the paperwork was not received by staff he made a motion to pass the resolution; however, due to a lack of a second the motion dies. Upon motion by Herold, seconded by Bailey, carried 4/0, Waldron was absent, to continue this hearing on the final plat until July 25, 1989 until 1:45 p.m.

(7/11/89 - 9 - 4.1241)

Bailey requested the discussion on fire hydrants. Frank McElroy, of Fire Service reported that their reasoning has been to put in a fire hydrant system that will meet the NFPA-24 standards that are referenced in the zoning requirements. In an area without a public utility or existing system can cost as much as \$40-60,000 for a subdivision that may require only 1 or 2 fire hydrants. Discussion followed. Campbell suggested the standards for water systems and fire flow protection could be looked at and perhaps addressed under a uniform code retire of utility. Discussion followed. Campbell stated the comprehensive plan is addressing some of