

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

NAME OF APPLICANT

APPLICATION NUMBER

James Edmonds
c/o Gordon MacKoul
2 Dondanville Road
Suite 211
St. Augustine, FL 32084

R-89-006

DECISION OF
COUNTY COMMISSION

GRANTED

GRANTED WITH
CONDITIONS

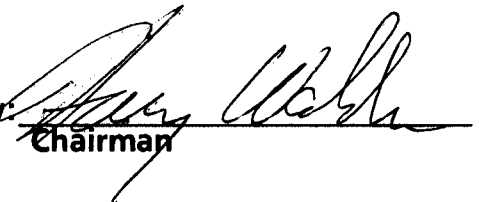
DENIED

CONDITIONAL ORDINANCE


*See Attached

DATE OF COMMISSION ACTION: June 13, 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)

RESOLUTION NO. 89-131

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

(6/13/89 - 9 - 3.0742)

Final Plat for Marsh Landing Unit 19, Marsh Landing at Sawgrass, Resolution No. 89-132. Jerry Sizemore, H. A. Durden Associates requested approval. Sisco reported: the construction bond is waived and the warranty bond is waived. Upon motion by Bailey, seconded by Brubaker, carried 5/0, to approve Resolution No. 89-132.

RESOLUTION NO. 89-132

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

(6/13/89 - 9 - 3.0782)

Waldron reported that the final plat for Southcreek Subdivision has been asked to be continued; Napier requested this item be continued until the June 27, 1989 BCC meeting. Upon motion by Herold, seconded by Maguire, carried 5/0, to continue the final plat for Southcreek until June 27, 1989 at 1:30 p.m.

(6/13/89 - 9 - 3.0832)

Sisco reported on Resolution No. 89-133, pertaining to approving the St. Johns County Industrial Development Authority refunding issue and he read the resolution by title. Sisco stated that V.A.W. has determined that by refinancing now can save money and this resolution approves the issuance by the Industrial Development Authority to issue bonds to refund the old issue. Upon motion by Bailey, seconded by Brubaker, carried 5/0, to approve Resolution No. 89-133.

RESOLUTION NO. 89-133

A RESOLUTION APPROVING THE ISSUANCE BY ST. JOHNS COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY OF \$5,680,000 PRINCIPAL AMOUNT OF ITS INDUSTRIAL DEVELOPMENT REVENUE REFUNDING BONDS (V.A.W. OF AMERICA, INCORPORATED PROJECT), SERIES, 1989, FOR THE PURPOSE OF FINANCING A PART OF THE COST OF REFUNDING THE OUTSTANDING ST. JOHNS COUNTY, FLORIDA, INDUSTRIAL DEVELOPMENT REVENUE BONDS (V.A.W. OF AMERICA, INC. PROJECT), SERIES A AND B, WHICH WERE ISSUED ON MAY 9, 1979 TO FINANCE THE COST OF A CAPITAL PROJECT COMPRISING A MANUFACTURING PLANT TO BE LOCATED IN ST. JOHNS COUNTY, FLORIDA, AND TO BE OWNED BY V.A.W. OF AMERICA, INCORPORATED; ALL PURSUANT TO CHAPTER 159, PARTS II AND III, FLORIDA STATUTES, AS AMENDED.

(6/13/89 - 9 - 3.0899)

Sisco reported that in 1989 the County issued its \$3,200,000 variable rate demand utility revenue bond, Series 1986, General Development, Inc., project and at the present time General Development wants to amend that issue with the consent of all the bond holders. The amending documents are not before the Commissioners, Sisco stated; further General Development has a law firm out of Miami by the name of Greenberg, Traurig, Hoffman, Lipoff, Rosen and Quentel and would like the BCC to authorize this firm to be bond counsel pertaining to the amending documents. Sisco asked if the BCC would consent to the above-named law firm, upon receipt of a letter saying they will represent General Development at the utilities expense. Upon motion by Bailey, seconded by Brubaker, carried 5/0, to approve the law firm of Greenberg, Traurig, Hoffman, Lipoff, Rosen and Quentel to represent General Development Utilities, Inc., as bond counsel at the utilities expense.

(6/13/89 - 9 - 3.0982)

Hearing on R-89-006/James Edmonds General Contractors, Inc., rezoning from IW to CI with conditions and exception for off-premises consumption (sales of beer and wine); located on corner of SR-207 and Wildwood Drive. This hearing includes appeal of the 4-4 vote on denial of the exception. Proof of publication of the rezoning on R-89-006 was received, having been published in The St. Augustine Record on May 3, 1989; upon motion by Brubaker, seconded by Bailey, carried 5/0, was ordered filed. Frank Upchurch, III, 780 No. Ponce de Leon Boulevard, reported on this item. In this report, Upchurch referred to a diagramed sketch. In addition, Upchurch stated Edmonds proposes to down-zone this property from its current industrial classification to CI with conditions restricting the property to a single use,

that is, a convenience store; further, the applicant is also seeking, as a package, an exception to allow the sale of beer and wine for off-premise consumption. The Planning and Zoning Agency, (PZA) recommended approval of the rezoning application with the conditions reflected in the proposed ordinance that has been prepared and submitted by them, stated Upchurch. The conditions basically grew out of staff's concern and were proposed by the PZA Board and offered and agreed to by Mr. Edmonds, to address staff's concerns. The conditions include county site plan and review prior to commencement of construction; restrictions on access to a single access onto SR 207 subject to DOT review; single access onto Wildwood subject to county review since that is a county road and not a state road; demolition and removal of the existing repair shop and garage; a 30 foot setback from the convenience store building and the gas pump islands from the surrounding roadways and a 10 foot setback along the southeast and southwestern boundaries; (3.1169) At this point, Upchurch submitted an additional condition, (the condition is enclosed with a copy of the ordinance, which is a part of the minutes of this meeting) which Sisco and he had discussed, and is designed to assure that both applications are acted upon as a package, in other words, they are both passed or denied. Discussion followed. (3.1377) At this point, Upchurch reported that under the State statute, the sale of beer for off-premise consumption is not subject to local zoning regulation. Discussion followed. (3.1578) Dr. Charles Foracre, Pastor of the Freedom Baptist Church spoke in opposition of the sale of beer and wine and all alcoholic beverages. Waldron directed the discussion to the BCC and staff. (3.1680) Sisco stated that Upchurch is accurate with regard to the sale of beer; further the county can regulate and allow certain uses and not allow beer sale for off-premise consumption with that particular use. However, even with that being done if the landowner gets a license to sell beer for off-premise consumption the county cannot enforce that portion of the zoning code. This is a quirk in the law regarding beer. Herold expressed the problem he has with the item, stating the law in Florida is that convenience stores can sell beer and wine; however, there are many states in the nation where this is not law; Herold feels the county should do whatever they can to deter drinking and driving as it is today. Maguire questioned the existing business that is on the property; will not the business be improperly zoned immediately? Napier stated the business is automobile repair which is a permitted use. Maguire stated according to the conditions of the rezoning, if passed, this property will have one permit only. Upchurch responded that Mr. Edmonds owns the property and is ready to go with the construction immediately if the rezoning is approved. The tenant on the property (M&B Automobile Repair) leases on a month-to-month basis, thus some notice would be given; further, Upchurch offered another condition in this regard. (3.1939) Waldron directed the Deputy Clerk to read the conditions; Upchurch stated that from Sisco's suggestion the first condition will be amended to address Maguire's concern with regard to the present tenant leasing the property. Bailey questioned the present CI whether or not there are any conditions on it. Napier responded that presently it is zoned IW with no conditions. Upon motion by Maguire, seconded by Brubaker, carried 3/2, Bailey and Herold dissenting, to approve the rezoning of R-89-006 from IW to CI with conditions. Proof of publication of R-89-006, change from IW to CI with Exception for off-premises consumption (sales of beer and wine) was received having been published in The St. Augustine Record on May 6, 1989; upon motion by Brubaker, seconded by Maguire, carried 5/0, was ordered filed. (3.2176) The exception was read into the minutes; upon motion by Herold, seconded by Bailey, carried 3/2, Brubaker and Maguire dissenting, to deny the exception for sale of beer and wine, off-premise consumption.

(6/13/89 - 10 - 3.2208)

Hearing on R-89-001/The Fountains of St. Augustine, rezoning from RS-3 and RMH(S) with conditions to CG with conditions; located SR-#16 adjacent to FHP Station, running easterly approx. 1,000 feet, and along Inspection Station Road, Ordinance No. 89-26. Proof of publication of notice of hearing on R-89-001 was received having been published in The St. Augustine Record on May 5, 1989; upon motion by Brubaker, seconded by Maguire, carried 5/0, was ordered filed. Dick Prosser, Prosser, Hallock and Kristoff representing the applicant of The Fountains, asks for the rezoning. Prosser reported the project is proposed as a neighborhood shopping center, 150,000 square feet, with a control of the architectural style. Further, Prosser stated Item #6 of the conditions was modified, which modification is noted in Ordinance No. 89-26 of these minutes. Discussion followed. Campbell reported that staff has filed a letter of objection to the PSC for the application of Four Mile Utilities and he has received a letter from PSC this morning; thus, staff will attend a Department of Administrative Hearing with Four Mile Utility to discuss this issue with them. If the developer is at the point of wanting to withdraw their application to PSC, Campbell stated he has not seen anything of that fact as yet. Herold stated that from his observation of comments by staff, five areas have been pointed out which staff is uncomfortable with and Herold expressed his reluctance to view conditions that amount to this many, that become very unwieldy; further,