

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

NAME OF APPLICANT

APPLICATION NUMBER

Mar-Wayne Associates
c/o John D. Bailey, Jr.
780 North Ponce de Leon Boulevard
St. Augustine, FL 32084

R-89-011

**DECISION OF
COUNTY COMMISSION**

GRANTED

**GRANTED WITH
CONDITIONS**

DENIED

CONDITIONAL ORDINANCE 89-18

*See Attached

DATE OF COMMISSION ACTION: May 9, 1989

*This is a true copy of the original document.
10/2/89*

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

By: *[Signature]*
Chairman

ATTEST: CARL "BUD" MARKEL, CLERK

BY: *Connie E. McDaniel*
DEPUTY CLERK

A TRUE COPY
CARL "BUD" MARKEL
Clerk Circuit Court
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)

(1) The permitted uses and structures specified in Section 5-9 of the St. Johns County Zoning Code shall be limited to the following:

(a) Retail outlets for the sale of new or used automobiles, trucks and automotive vehicle parts as specified in Section 5-9-1 (a), St. Johns County Zoning Code.

(b) Service establishments for automobile and truck repair and service garage, rental of automotive vehicles, trailers and trucks as specified in Section 5-9-1 (b), St. Johns County Zoning Code.

The remaining uses specified in Sections 5-9 (a) and (b), and those uses specified in subsections (c), (d), (e), (f) and (G) shall not be permitted on the subject real property.

(2) No more than two (2) curb cuts shall be permitted on Highway U.S. 1 South for ingress and egress to the subject real property. If determined necessary by the Department of Transportation, right turn lanes and/or accel lanes shall be installed at the owner's expense.

(3) A ten (10') foot wide natural buffer or green buffer consisting of plantings and grass shall be situated along the entire boundary of the subject real property inside the required fence.

(4) Any gasoline on premises shall not be sold at retail.

(5) Any lights installed on the property shall be shielded from the adjoining residential properties.

(6) All repair of vehicles shall be in a completely enclosed building.

(7) All structures, exclusive of signs, shall be setback a minimum of twenty-five (25') feet from the right of way of Highway U.S. 1 South.

(continued on next page)

(8) The maximum height of all structures on the property shall be thirty-five (35') feet.

(9) No outside loud speakers will be utilized on the property between the hours of 8:00 p.m. and 8:00 a.m. All outside speakers shall have volume controls and be faced towards U.S. Highway 1 and not the adjoining residential area.

(10) There shall be no ingress or egress from the property to Calle Menendez or Calle Madrid.

(11) To assure compliance with the Zoning Ordinance conditions and all other applicable land development regulations, the Developer shall submit a detailed site development plan for County Staff review and approval prior to any land clearing or construction occurring on site.

(12) No Body Shop or Paint Shop shall be permitted on the property as a permitted or accessory use.

(13) Prior to the issuance of any building permits for construction on the East 1/2 of Block H and all of Block I, Parque Aviles Subdivision, the owner and applicant shall record Deed Restrictions limiting the use of Lots 8 through 14 of Block H, Parque Aviles Subdivision to residential use only. The Deed Restrictions shall be in a form acceptable to the County Attorney, and shall benefit and be enforceable by the County.

Which conditions shall remain in full force and effect at all times until amended or changed by further ordinance of this Body.

SECTION 2. Nothing herein contained shall be deemed to impose conditions, limitations or requirements not applicable to all other land in the zoning district wherein said lands are located, except as provided in Section 1 above.

SECTION 3. The St. Johns County Building Department is authorized to issue construction permits allowed by classification as rezoned and conditioned hereby.

(5/9/89 - 10 - 3.0111)

Hearing on R-PSD-89-004/Wildwood Too Inc., representative Gerald Dake Associates; rezoning from RS-3 to PSD, a mixture of residential and commercial (professional and financial institutions); located on east side of A1A South, across from the 206 intersection and extending approximately 400 feet northerly. Proof of publication for hearing on R-PSD-89-004 was received having been published in The St. Augustine Record on April 5, 1989; upon motion by Brubaker, seconded by Herold, carried 5/0, was ordered filed. Gerald Dake, 7563 Phillips Highway, Jacksonville, agent for owner of subject property, requested rezoning of property. The subject property historically has been somewhat impacted by the construction of the bridge and brought the bulk of a very busy highway into Crescent Beach. Dake felt the comprehensive plan addresses this piece of property very well and Dake referred to a blow-up of Figure 15 on a map out of the comprehensive plan. Dake based his discussion on this map. Napier reported staff disagrees with this project in terms of the comprehensive plan. Napier referred to a larger scale map from the comprehensive plan and felt the more detailed elements of the comprehensive plan should prevail. Sisco responded that if the zoning does not meet the comprehensive plan it cannot be done. Phillip Hamilton, Crescent Beach commented that the land surrounding this application is presently zoned residential and would be completely contrary to PZA; Hamilton stated PZA has heard this application twice and have recommended to the BCC to deny it both times as being contrary to the comprehensive plan. Petitions were submitted as part of these minutes with 32 petitions in favor of this rezoning and 6 opposed to it.

Persons in the audience who spoke in opposition: Judy Ginn, 6789 Avenue A, was in opposition to the rezoning. Patricia Laurencelle, 23 Versaggi Drive, spoke in opposition to the rezoning. Judy Ginn submitted a letter from the Anastasia Island Preservation Association which is in opposition to the rezoning and addresses the comprehensive plan.

(3.0548) Dake quoted from Page 110 of the comprehensive plan which he felt spoke in favor of this application. Napier commented on the map alluded to by Dake which was general in nature, as opposed to the map displayed by Napier which is more detailed and taken from the comprehensive plan. Napier discussed this map briefly which is found on Page 142 Z-1 of the comprehensive plan. Discussion followed. Upon motion by Bailey, seconded by Herold, carried 4/1, Waldron dissenting, that this application is in non-compliance with the comprehensive plan. Sisco stated he felt the BCC has the option that they do not have to vote on the rezoning at this time; if the rezoning has been advertised and the BCC voted on the rezoning it would be contingent upon a finding by a court that the application was not in conflict with the plan and this would save going through the entire process again of rezoning; if the BCC wishes to vote on the rezoning, they should vote it up and down based upon what they consider is proper zoning principles with an understanding that unless and until someone else determines that this project is in conformance with the comprehensive plan, that the rezoning would not take effect. Upon motion by Herold, seconded by Maguire, carried 5/0, to deny R-PSD-89-004.

(5/9/89 - 10 - 3.0915)

Hearing on Ordinance No. 89-18, R-89-011/Runk Construction Company Inc. and Mar-Wayne Associates; rezoning from CG and RS-3 to CI with conditions; located on west side of U.S. #1 South, between Calle Madrid and Calle Menendez. Proof of publication of notice of R-89-011 was received having been published in The St. Augustine Record on April 5, 1989; upon motion by Brubaker, seconded by Herold, carried 5/0, was ordered filed. Court Reporter present. Petitions were submitted and they are a part of these minutes, with 75 petitions opposed to this rezoning and 56 petitions in favor of this rezoning. John Bailey, 780 North Ponce de Leon Boulevard, representing Runk Construction and Mar-Wayne Associates spoke in behalf of this rezoning request. Bailey stated the proposal is to rezone this property to a very restrictive CI, allowing Mar-Wayne Associates to construct a Mazda dealership on the property. The application was originally submitted with conditions, which conditions were added to after conference with staff and supplemented further after application was presented to the PZA. Discussion followed. In his discussion, Bailey alluded to a map he displayed. Herold questioned Bailey with regard to the map and Herold felt, from viewing the map, this property would go into the backyard of residential lots already existing there, without a street in between. Bailey responded this property will abut residential lots, however, the zoning code requires a fence anytime commercial abuts residential. In addition, Bailey stated a buffer has been provided for in the ordinance itself which would be in addition to the required fence. Wayne Sharpes, 2898 U.S. 1 South, President of Scott/Honda, gave a presentation alluding to a blow-up of the section of property under discussion. Sharpes stated that the portion of property presently zoned CG does not have the depth that is required by Sharpes to operate an automobile dealership. Discussion followed. Herold read an advertisement from Runk Construction Company which alluded to the homes in this area as being

located on beautifully wooded lots in a quiet area. Herold alluded to the fact that this project may be in conflict with what was originally intended by Runk Construction. Sharpes stated this may originally have been the intent, but at present the property is obviously worth more money to Sharpes than it would be by selling lots. Sharpes mentioned that property on U.S. 1 is becoming more difficult to ascertain, the size of which automobile dealers need. Sharpes related any future purchasers of the property along the boundaries of the fence and buffer, referred to earlier in Bailey's presentation, will be acutely aware of what is being done. Maguire commented that another automobile dealership in the north end of St. Augustine has considerably less depth to his property and is doing quite well. Considerable discussion followed.

(3.1898) Persons in the audience who spoke in opposition to the rezoning: Jess Grant, LaVerne Marchioli, Jerry Morgan; Patricia Laurencelle, commented as a citizen of St. Johns County and expressed concern with the rezoning from residential to commercial in this instance. Waldron questioned Bailey on the portion of his conditions which allude to the buffer around the property. Bailey responded in the ordinance this is #3 of the conditions which state: "a ten (10') foot wide natural buffer or green buffer consisting of plantings and grass shall be situated along the entire boundary of the subject real property inside the required fence." Napier reported both the staff and PZA has given a favorable recommendation to this item, by virtue to the conditions that were offered; however, if this was a straight C1 zoning, the situation would be entirely different, stated Napier. Commissioner Bailey reported that she has spoken with the residents who live behind Sharpes' Scott/Honda, where it is presently located, and they are unhappy and wished they had not agreed it would be good. Commissioner Bailey commended Sharpes on the appearance of his business, how well groomed it is, however, the noise is a major factor. Sharpes stated he is willing to work with the residents in this application to rectify the noise levels. (3.2623) At this point Sharpes submitted a petition with 50 signatures in favor of this rezoning. Maguire asked Sharpes how many persons who signed the petition just submitted by him live in the Parques Aviles, which is the vicinity of the rezoning, to which Sharpes responded he was not sure as the signatures are mostly from customers and other persons who came into the dealership that his office manager or service manager saw. Herold expressed his objection to taking residential property and rezoning it to commercial and in turn back it up into other residential property. Herold, however, commended Sharpes on his dealership, that it is one of the best in the county. Art Runk, Jr., 8 Sea Oaks Drive, President of Runk Construction Company, commented with regard to Parque Aviles, stating Runk Construction did not develop this subdivision, as it was platted in 1926, however, Runk Construction did purchase 54 lots, built 13 homes and sold those; since then Runk Construction has sold 11 lots to other builders. Art stated that Runk Construction did not make any promises such as were stated about the front property. The closest house that Runk Construction sold was Mr. Grant's house, Block G, Lot 9. Art related Runk Construction does not have any objection to what is being proposed here. Additionally, Runk stated he is willing to put deed restrictions in on the remaining lots to keep them as residential. (3.3229) Sisco stated this should be drafted up, identifying the lots by block and lot numbers with the deed restrictions for the county of named beneficiary, that they will be recorded before the first building permits were issued on the subject property rezoning. Thus, the condition was placed in Ordinance No. 89-18 as condition #13 which reads: "Prior to the issuance of any building permits for construction on the East 1/2 of Block H and all of Block I, Parques Aviles Subdivision, the owner and applicant shall record Deed Restrictions limiting the use of Lots 8 through 14 of Block H, Parques Aviles Subdivision to residential use only. The Deed Restrictions shall be in a form acceptable to the County Attorney, and shall benefit and be enforceable by the County." The clerk read the conditions into the record of this meeting; moreover, such conditions read by the clerk were proposed conditions before the PZA, not from Ordinance No. 89-18. However, the proper and correct conditions contained in Ordinance No. 89-18 were duly noted by John Bailey as well as the Commission and they are on file in the Clerk's Office. Waldron strongly suggested an additional stipulation be placed in condition #2 of Ordinance No. 89-18, pertaining to lanes, which condition reads as follows: "No more than two (2) curb cuts shall be permitted on Highway U.S. 1 South for ingress and egress to the subject real property. If determined necessary by the Department of Transportation, right turn lanes and/or access lanes shall be installed at the owner's expense." Upon motion by Maguire, seconded by Brubaker, carried 3/2, to approve Ordinance No. 89-18 with conditions. (4.0225) Roll call vote was taken:

Maguire -	Yes
Brubaker -	Yes
Waldron	Yes
Bailey	No
Herold	No

(5/9/89 - 11 - 4.0234)