

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

NAME OF APPLICANT

APPLICATION NUMBER

Marc & Janet Sokolay, Warren & Lynn Kluger
c/o Karen Taylor
Landmark Planning Group
Perimeter Center, Suite 12
8021 Phillips Highway
Jacksonville, Fl. 32256

R-89-050

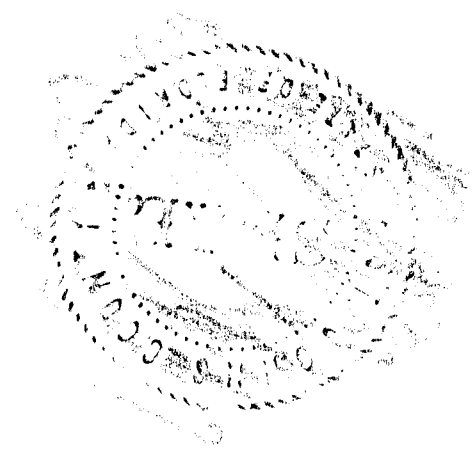
DECISION OF
COUNTY COMMISSION

GRANTED

GRANTED WITH
CONDITIONS

DENIED

CONDITIONAL ORDINANCE NO. 90- 3



*See Attached Copy of Minutes

DATE OF COMMISSION ACTION: January 23, 1990

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Craig A. Maguire
Chairman

ATTEST: CARL "BUD" MARKEL, CLERK

BY: Connie E. McDaniel
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)

Maguire stated this function has taken place and the BCC has approved, prior to today's BCC meeting some grants which were presented to the BCC for approval in November/December; there were questions at that time, thus these were tabled until further notice. As a result, they are being brought back to the BCC for approval today, reported Maguire. Moreover, all of these agencies have been approved by both the grants panel, the Arts Alliance and by the Tourist Development Council. The projects which are outlined in pink on the attached documentation is what is under consideration for the BCC today, stated Maguire. Betty Usina, 4090 Myrtle Street, TDC Member, pointed out that possibly the questions would revolve around line item budgets and at the time these people went through their first application process, the present line item budgets, that are now requested, were not requested in that form although they have now developed line item budgets. Usina further requested that since these people have made presentations already before the Arts Alliance and the TDC it might be possible to give these items approval with the submission of a line item budget. At the time they went through their approval process, the TDC was not requiring the present line item budget; what has been done in reality, the TDC has made this retroactive and these people have now developed line item budgets to meet this requirement, stated Usina. Upon motion by Waldron, seconded by Herold, carried 5/0, to approve all the budgets submitted in this material labeled item #17, with submission of line item budgets to Finance Director, Henry Hendrix' office. Markel questioned the Palm Valley Little Theatre Group and requested that Maguire get the Arts Alliance Group to look into how the Palm Valley Little Theatre Group promotes tourism in St. Johns County.

The meeting thereupon recessed and reconvened at 1:30 p.m. with Waldron, Bailey, Brubaker, Herold, Maguire, Sisco, Castle, Mulligan and McDaniel present. Also present was Planning Coordinator Jerry Napier.

(1/23/90 - 9 - 3.0428)

Hearing on R-89-051/Howard Mizell-Tim Gabriel, rezoning from OR to RS-3 with conditions, located on Lightsey Road, 20 acres. Proof of publication of notice of hearing on R-89-051 was received, having been published in The St. Augustine Record on December 15, 1989; upon motion by Brubaker, seconded by Herold, carried 5/0, was ordered filed. Waldron filed a conflict of interest form on this application. Tim Gabriel, representing Mizell requested the rezoning. Napier reported that prior to any development they will have to proceed through the platting process and comply with all land development regulations on the property at that time. Brubaker questioned if this application will be in close proximity to the County's water and sewer lines. Gabriel responded that they have run a line down Lightsey Road about 1500 feet and back into the subdivision; this would just be continuing the existing lines. Waldron suggested the condition pertaining to this issue will have to be changed in the ordinance. Bailey questioned the water and sewer facilities. Upon motion by Herold, seconded by Brubaker, carried 4/0, Waldron abstaining on a measure which inures to his special private gain, to approve Ordinance No. 90-1, with conditions.

(1/23/90 - 9 - 3.0688)

Hearing on Major Modification to R-PUD-83-66/Ordinance No. 84-30/Mallard Landing, extension of time limit for schedule of Development. Napier reported that this item was continued at the last Planning and Zoning Agency (PZA) meeting until February 1, 1990; the PZA's action is necessary prior to the BCC hearing and recommended this item be continued until February 27, 1990 at 1:45 p.m. Upon motion by Herold, seconded by Bailey, carried 5/0, to continue R-PUD-83-66 until February 27, 1990 at 1:45 p.m.

(1/23/90 - 9 - 3.0720)

Hearing on R-PSD-89-054/St. Augustine Ocean Gallery Partners, rezoning from CG-B to PSD for development of single family lots, located A1A South at Ocean Gallery development. Proof of publication of notice of hearing on R-PSD-89-054 was received having been published in The St. Augustine Record on December 21, 1989; upon motion by Brubaker, seconded by Bailey, carried 5/0, was ordered filed. Herold filed a conflict of interest form on this application. George McClure, 81 King Street representing the applicants requested the rezoning. Upon motion by Bailey, seconded by Waldron, carried 4/0, Herold abstaining on a measure which inures to his special private gain, to approve Ordinance No. 90-2.

(1/23/90 - 9 - 3.0938)

Continued hearing on R-89-050/Sokolay and Kluger, rezoning from OR to RS-2 with conditions, located off Kings Road. Karen Taylor, 3070 Harbor Drive representing Drs. Sokolay and Kluger requested approval on this application. Taylor stated that

after discussion with Bobby Jones, Director of ASD, the new plans for Mainland Water will bring water down Kings Estate Road, quite close in proximity to this subdivision; therefore, Taylor responded that her clients would like to tie into the county's central water - for drinking water and fire protection. Taylor further stated that at the initial hearing of the PZA Drs. Sokolay and Kluger's requests were for 17 lots that were 29,000 square feet in size; this has been changed to one-acre lots in order to accommodate the new ruling on septic tank and wells. Therefore, Taylor requested that her clients be allowed to go back to the 17 lots at 29,000 square feet in order to compensate for tying into the county's water system. Napier reported that the ordinance as it exist presently will need to be modified to include the conditions that have been agreed to today. Upon motion by Waldron, seconded by Brubaker, carried 5/0, to approve Ordinance No. 90-3, with conditions.
(1/23/90 - 10 - 3.1377)

Request of Tully Builders Inc. to locate a subdivision sign within the right-of-way of Remington Avenue, a County Road, Resolution No. 90-16. Keith Fountain, Upchurch, Bailey & Upchurch was present representing the applicant for any questions; Commissioner Bailey questioned how far into the right-of-way does this extend to which Fountain responded that this is unknown - it is approximately 8 feet off the paved portion of the road. Holmes reported that this application is the first of its kind since her tenure with the county and it is a very critical decision of the BCC. Further, Holmes reported that the sign has been installed and it is not a distraction, but never before has the BCC given approval for a permanent sign to be located in the right-of-way, to Holmes knowledge. Generally, the right-of-way is required - by ordinance - to be a certain width in order to facilitate the location of utilities and drainage facilities; in this particular instance the land that is owned on which the road is located has wetlands in it; thus the road is already shifted to the west of the right-of-way, Holmes reported. Campbell reported that at the last meeting when Dobbs Roads was discussed there were merchants from Dobbs Road requesting to put signs in the county right-of-way for advertisement; thus, this application could perhaps set a precedent for a number of signs in county right-of-ways for advertisement. Holmes responded that with the drafting of this resolution an attempt has been made to minimize the concerns that staff has with regard to safety and possible future need of that right-of-way for some other use. Discussion followed. Sisco reported on a case, pertaining to an arterial road: a city in the State of Florida put a coquina rock sign up; some guy got drunk and ran his car into it; this case went through the Court process and it was determined that the city was liable. Additionally, the indemnification agreement from Tully is only as good as his corporation is and how much assets his corporation has. With regard to the homeowners association, if they are going to indemnify it, and a huge judgment came down, then the homeowners association would fold, stated Sisco. Moreover, the insurance is probably the best there is, but unless there is a tickler file to make sure this is done every year until eternity, Sisco was not sure if this insurance could be kept in effect. Herold responded that this sign is built and in place and questioned Fountain why the normal county process was not followed to which Fountain responded that the sign was inadvertently placed on the county right-of-way. Napier responded that the sign was erected without a permit; it was noted under construction and cited accordingly. Barry Tully, 1534 San Raphael Way reported that he brought this to Holmes' attention, no one came out and red-tagged him on this. Further, Tully stated that part of the sign is a pump to irrigate the subdivision and he has approximately \$4,000 in irrigation and landscaping. Herold asked Tully how long a build-out did he have in mind to which Tully responded that he was in hopes of being out of there in two years and at that time would be happy to bulldoze the sign down and remove the pump, if this is the BCC's wishes. Cliff Petitt, 960 Alcala Drive commented in opposition to this application. Upon motion by Waldron, seconded by Brubaker, carried 3/2, Bailey and Herold dissenting, to approve Resolution No. 90-16, contingent upon the conditions as outlined in Resolution No. 90-16 and with the stipulation that the sign will be removed in two years.

RESOLUTION NO. 90-16

APPROVAL GRANTED TO TULLY BUILDERS, CONSTRUCTOR OF THE SIGN, PERMISSION TO PLACE CONCRETE SIGN WITHIN COUNTY RIGHT-OF-WAY; THIS RIGHT OF USE IS NON-EXCLUSIVE, AND WILL BE AUTOMATICALLY TERMINATED ON JANUARY 23, 1992; RESOLUTION CONTINGENT UPON REMAINDER OF CONDITIONS SO OUTLINED IN SAID RESOLUTION.

(1/23/90 - 10 - 3.2737)

Sisco reported on the expiration term of a member of the Industrial Development Authority, that member being Andrew J. DuPont, Jr.; thus Sisco has prepared a