

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

NAME OF APPLICANT

APPLICATION NUMBER

THOMAS and FRANCIS BURNS

E-90-086

c/o UPCHURCH, BAILEY and UPCHURCH, P.A.
780 NORTH PONCE de LEON BLVD.
POST OFFICE DRAWER 3007
ST. AUGUSTINE, FL. 32085-3007

DECISION OF
COUNTY COMMISSION

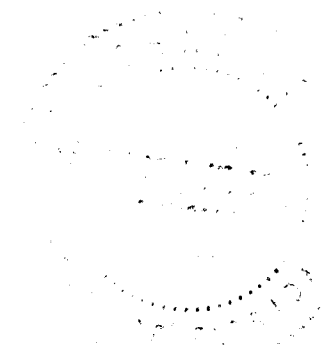
GRANTED

GRANTED WITH
CONDITIONS

DENIED

*See Attached

DATE OF COMMISSION ACTION:



BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: *Donald R. Kuder*
Chairman

ATTEST: CARL "BUD" MARKEL, CLERK

BY: *Amy B. Mulligan*
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)

The meeting thereupon recessed and reconvened at 1:30 p.m. with Herold, Bailey, Floyd, Balsavage, Maguire, Brinkhoff, Roberts, Sisco, Campbell, Mulligan and DeGrande present. Also present was Planning Coordinator Jerry Napier.

(03/12/91 - 9 - 2.2670)

Hearing on appeal of E-90-086 Thomas and Frances Burns, requested subdivision entrance sign within the entrance road of Hidden Creek Subdivision, east side of State Road 206. **Proof of publication of the notice of the hearing was received, having been published in the St. Augustine Record on February 18, 1991; upon motion by Bailey, seconded by Brinkhoff, carried 7/0 was ordered filed.** Attorney John Bailey, representing Frances and Thomas Burns, appealed the denial of this exception by the Planning and Zoning Agency (PZA). Dr. Frances Burns was also present. Bailey reviewed the background of the appeal. Bailey exhibited a copy of the plat of Hidden Creek to show the configuration of the property. Bailey said that Burns owned only 60' of frontage along SR 206; the first lot was 613' off SR 206. The entrance road was dedicated to the County in 1989 when the plat was approved. Bailey said that the plat did not include provision for an entrance sign or an island for the entrance. Bailey said that Burns had a sign easement on Lot 1 which is 613' from the highway but felt that a sign in that location was virtually useless because it couldn't be read from the highway. He continued by saying that one of Burns' contractors had suggested placing a sign on an island in the entrance road and it was placed there. Bailey showed a photograph of the sign to the Commissioners; stated that the sign was approximately 4 feet by 6 feet. In response to Brinkhoff's question, Bailey said that the sign was presently located 8 feet north of the right of way of SR 206; said that before the roads were accepted by the County, the County realized that the sign was there and advised Dr. Burns that this was not permitted as he had not obtained a permit from the County to locate the sign within the right of way and the plat did not provide for the sign. Bailey said that Burns then started his administrative appeals process which began with the PZA; on December 20, 1990, that appeal was denied, apparently because of maintenance and liability concerns raised by Staff. Bailey said that he suggested that Burns secure a sign easement from the adjacent property owner; Burns contacted the owners and both refused to grant him a sign easement. Bailey said that there was authority for the County to grant permission for an individual to place a mailbox, etc., in a County right of way; he cited Section 5 (a) of County Ordinance 86-4, the paving and draining ordinance. Frances Burns, 1365 Brightwaters Boulevard, Northeast, St. Petersburg, Florida, described the circumstances surrounding the placement of the sign. Burns requested an exception which would allow him to keep the sign in its present location. In response to Maguire's question, Burns replied that the island and the sign were not part of the subdivision plat which was approved. Roberts asked what County procedure had been in similar instances; Holmes replied that the only mechanism she knew of would be by Board action such as a resolution offering certain conditions. Holmes said that this situation differed from others in that Burns' sign would have to be in the 60' right of way required by Ordinance 86-4 because he owned no other land (on SR 206). Maguire commented that in this instance, a County road has been modified without Board approval. Discussion followed. Attorney Bailey summed up by saying that it was an unfortunate situation; his client had received some advice which was probably improper and relied on it. Bailey said that County staff had tried to work with Burns somewhat to come up with a solution. Bailey listed the exhibits which he submitted: Exhibit 2, survey of the existing island and sign; Exhibit 3, unsigned letter from one of Burns' adjacent land owners stating that he was unwilling to grant Burns a sign easement; Exhibit 4, letter from Sharon Holmes stating that the County has inspected the roads and has found everything else in compliance with the exception of the divided entrance way and sign; Exhibit 5, letter from Larry Paine, Civil Engineer, whom Dr. Burns has hired to review this matter. Discussion followed. Burns stated that there were many subdivisions in the County with islands and signs in the rights of way of County roads. Holmes responded that most are in private subdivisions; the remainder were constructed prior to Ordinance 86-4; the Engineering Department is researching any reported violations and will take necessary enforcement action. Discussion followed. **Motion by Commissioner Bailey, seconded by Roberts, carried 7/0 to deny the appeal. Balsavage requested some assurance that the County would not be held liable while the letter of credit was extended.** Herold asked Bailey if he would agree to furnish proof of liability insurance with the County as a named insured on the island and the sign as long as it remains there while Burns tries to work out a solution to the sign location. Sisco recommended that the insurance amount be the amount of the sovereign immunity amount set forth in the partial waiver statute of the Florida Statutes. John Bailey agreed to that amount and to provide proof of insurance by March 20, 1991. **Recommendation by Holmes, motion by Brinkhoff, seconded by Bailey, carried 7/0 to authorize staff to accept a bond reduction to \$30,000 by March 20, 1991 or call the existing bond if necessary. Motion by**

Maguire, seconded by Brinkhoff, carried 7/0 to extend the \$30,000 letter of credit for 9 months pending receipt of proof of insurance from Thomas and Frances Burns with proof of insurance to be furnished by March 20, 1991. Motion by Bailey, seconded by Brinkhoff, carried 7/0 that Staff refrain from taking the violations to the Code Enforcement Board for a period of 60 days. Motion by Maguire, seconded by Brinkhoff, carried 7/0 to waive any time limit to the filing of an exception by Burns.

(03/12/91 - 10 - 3.0910)

Final Development Plan for temporary sales office facility, Moultrie Lakes PUD, 312 Extension. Tim Gabriel, 645 21st Street, North Beach, representing the applicant, Ray McCall, requested approval of the Final Development Plan. Motion by Brinkhoff, seconded by Roberts, carried 7/0 to approve the Final Development Plan for temporary sales office facility, Moultrie Lakes PUD, 312 Extension, Resolution No. 91-53.

RESOLUTION NO. 91-53

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS ST. JOHNS COUNTY, STATE OF FLORIDA, APPROVING A TEMPORARY FINAL DEVELOPMENT PLAN IN ACCORDANCE WITH PUD ORDINANCE NUMBER 86-86 ALSO KNOWN AS MOULTRIE LAKES

(03/12/91 - 10 - 3.1080)

Discussion of goals and objectives of St. Johns County Community Redevelopment Agency (CRA). John Lester, 116 San Rafael Road, Chairman of the CRA, stated that it was the consensus of the CRA to advise the Board of its perception of its goals and to be certain that it is in concert with the Board's plan for the CRA. Lester stated that the CRA has hired John Searles as Executive Director and has received great support from Tom Renner and Rosemary Jones of the County Staff. Lester said that the CRA's first recommended project will be the Surfside and Pine Crest subdivisions in the northeast part of the County; the CRA envisions the revenues for this project enabling the CRA to accomplish the redevelopment of certain subdivisions in West Augustine. Lester answered questions from the Board.

(03/12/91 - 10 - 3.1207)

Clerk Markel said that while this was a great idea, it had been proposed by only one developer. Markel said that it was hard for him to believe that land which was next to \$100,000 lots could be called worthless and fall under the legal aspects of redevelopment. Markel hoped that the Board would ask themselves if redevelopment would work in the West Augustine area; that developers would have to put up their own money to make it work. Markel said that he hoped it would work but hoped the Board would give it plenty of thought. Markel said that they would all look bad if they were unable to get outside developers' money to work in the West Augustine area. Herold pointed out that this was just a discussion of goals and objectives; said that he appreciated Lester's appearance before the Board; asked Lester to keep the Board informed of their progress.

(03/12/91 - 10 - 3.1330)

David Dee - Status Report, the Southeast Landfill. The Board applauded Dee for his successful fight against the Southeast Landfill. Dee gave a quick status report on 3 projects on which he worked in 1990. First was a dispute with the Public Service Commission over the regional wastewater treatment plant near I-95 and SR 16. Dee said that it was a case where Jacksonville Suburban wanted to put in a utility to serve part of that area which the County wanted to serve. He intervened in the PSC proceedings and persuaded Jacksonville Suburban to abandon their plans; there was a very quick and successful resolution to the problem. Dee's second project was assisting the County get the permits for the Tillman Ridge Landfill. Third, was the Southeast Landfill. The Governor and Cabinet voted unanimously to support St. Johns County in that regard; the City of Jacksonville has until March 18, 1991 to file an appeal. Dee said that they would probably file a notice of appeal in order to keep their options open for a while. Dee briefly described the scenario if the City appeals. Dee said that one option before the Board was to challenge the Army Corps of Engineers (ACOE) dredge and fill permit for the Southeast Landfill. He still recommends waiting before filing a challenge to the ACOE permit. Balsavage said that she had contacted Craig James and Senator Mack to try to get them to work together to get the Corps files revisited; asked if Dee thought a resolution from the Board would encourage them in this regard. He said that he was in favor of that. Herold asked Balsavage to prepare such a resolution for consideration at the next Board meeting. Dee encouraged the Board to write the Governor and Cabinet and thank them for their votes on the Southeast Landfill issue. Herold thanked Dee for his report.

(03/12/91 - 10 - 3.1809)