

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

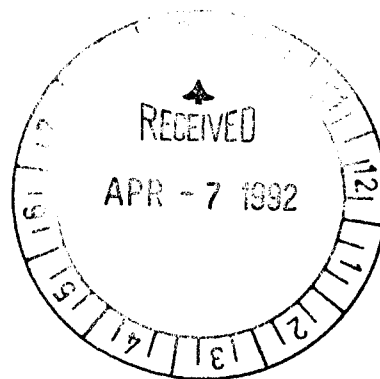
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NAME OF APPLICANT	APPLICATION NUMBER
SHIRLEY MAYO HAUSLER P. O. BOX 163 ST. AUGUSTINE, FL. 32085-0163	E91-069

DECISION OF COUNTY COMMISSION       GRANTED       GRANTED WITH CONDITIONS       DENIED

CONDITIONS:

1. Staff site plan approval.
2. Skirting on the mobile home
3. Non-rental family use only
4. No-transferability of the request
5. 75 ft. front setback
6. 15 ft. side setback
7. At the time of installation the mobile home won't be over 4 years old.
8. Will not subdivide the 9 acre tract as long as the mobile home is on the property.



\*See Attached

DATE OF COMMISSION ACTION: JANUARY 28, 1992

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BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By: J. S. B. U. U.  
Chairman

ATTEST: CARL "BUD" MARKEL, CLERK

BY: Jalvin D. Grande  
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)

(01/28/92 - 7 - 2.1645)

**PUBLIC COMMENTS:**

John Pfeil, 547 Solo Court, commented on legal advertisements concerning proposed ordinances and feels interested persons should be advised individually. Discussion followed.

(01/28/92 - 7 - 2.1950)

**COMMISSIONERS REPORTS:**

Commissioner Balsavage discussed the town hall meetings and will be able to advise everyone later today where and when the first meeting will take place.

(2.1977)

Commissioner Bailey reported to Meiszer that Brevard County is requesting information on our Comp Plan regarding upland vegetation and wildlife endangered species.

Bailey reported on the success of Columbus Commission forum that was held last weekend.

Bailey reported on the Florida Power and Light trip to show what they want to do to Nine Mile Road; she requested that they make a report to the Board at the second meeting in February.

(2.2054)

Commissioner Herold requested support from the Board to prepare a resolution stating that "no one speaks for this Board or the TDC Board unless specifically instructed by those Boards". The Board was in agreement with this request.

(2.2133)

Brinkhoff asked for clarification of Maguire's earlier comment concerning the preparation of ordinances and resolutions. Maguire stated that he would research past action by this Board establishing that the county attorney draws up resolutions and ordinances only at the direction of this Board and resolution and ordinances were to be put on the agenda at the appointment of this Board. Discussion followed. Motion by Roberts, died for lack of a second, that the Board must give approval before any commissioner can have county attorneys spend time to draft ordinances or an amendment to an ordinance, if there is not time for such approval the attorney can get verbal approval from the majority of the Board. Discussion followed. Maguire requested permission to work with the County Attorney and bring a recommendation back to the Board at a later date. All agreed with Maguire's request.

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

(01/28/92 - 7 - 2.2585)

TABLED FROM JANUARY 14, 1992 - APPEAL - E-91-069 - SHIRLEY MAYO HAUSLER, REQUEST WAS TO PLACE A MOBILE HOME FOR FAMILY USE ON LAND ZONED RS-2, SINGLE FAMILY RESIDENTIAL LOCATED AT OLD SR 207, WITH 911 ADDRESS BEING 7350 SR 207, HASTINGS. PZA DENIED, UNANIMOUS: The motion regarding this appeal that was made by Commissioner Roberts on January 14, 1992, and was tabled, was read into the record. Commissioner Roberts withdrew his motion that was made on January 14, 1992, and Floyd withdrew his second of the motion. Shirley Hausler was present and stated that she had carefully considered the previously made motion and was in agreement with everything except the fifty (50) feet setback; her intent was to keep the mobile home as carefully hidden as possible, by placing it 50 feet from the property line it will put it out in the open and in the potato field. She requested to be allowed to have a seventy five (75) feet setback on the front, and 15 feet from the northern most property line; all other conditions as stated are accepted. Discussion followed. Roberta McAloon Zizka, 7085 Old SR 207, turned in a petition with 11 signatures, stating opposition. Chris Haffner, 7220 Old SR 207, voiced his opposition, with or without conditions. Martha Swift, 7120 Old SR 207, stated her opposition to the request. Scott Gable, 7100 Old SR 207, stated he is opposed to the request. Discussion followed. (2.3317) Motion by Roberts, seconded by Herold, carried 4/3, with Floyd, Balsavage, and Bailey dissenting, to override the PZA and grant the exception for E-91-069 as requested by Shirley Hausler with conditions: 1) Staff site plan approval. 2) Skirting on the mobile home. 3) Non-rental family use only. 4) No-transferability of the request. 5) 75 ft. front setback. 6) 15 ft. side setback. 7) At the time of installation the mobile home won't be over 4 years old. 8) Will not subdivide the 9 acre tract as long as the

mobile home is on the property. Motion by Floyd, died for lack of a second, to amend the previous motion by placing a stockade fence around the mobile home.

(01/28/92 - 8 - 2.3400)

APPEAL: MINOR MODIFICATION TO FINAL DEVELOPMENT PLAN, SAWGRASS VILLAGE, PHASE TWO, LOCATED OFF TPC BOULEVARD - REQUEST WAS TO MODIFY APPROVED FINAL DEVELOPMENT PLAN TO ALLOW CONVERSION OF A PORTION OF THE AREA PREVIOUSLY DESIGNATED AS FUTURE PARKING AND TO ALLOW THAT AREA TO BECOME FUTURE FAST FOOD RESTAURANT WITH DRIVE-THROUGH, AND TO MODIFY THE PHASE DESIGNATION TO THREE AND FOUR. PZA DENIED, UNANIMOUS: Proof of publication of notice of hearing to consider an appeal to the Zoning Board decision on IML Properties for a Minor Modification to Final Development Plan, Sawgrass Village, Phase Two, located off TPC Boulevard was received having been published in The St. Augustine Record on December 27, 1991. Attorney Terry Moore, 3100 Barnett Center, was present representing the applicant of the appeal. Moore explained the issue for the appeal is the denial by P&Z of the reallocation of commercial development area from an area that was shown on the original Phase II final development plan to a new area at the intersection of Sawgrass Village Drive and TPC Boulevard. Moore expressed that they would like to take exception to the fact that the Board is sitting for this matter in a quasi-judiciary fashion. He hopes an unbiased hearing can be obtained for all the information he will present. Moore requested that any member of the Board that has taken a public stance, before any public boards or bodies, subject to the advice of the County Attorney, that they consider disqualifying themselves; to the extent that any member of the Board cannot render an unbiased opinion on the information to be presented, he's reserved his rights as the appellant. Balsavage stated that she feels she is being challenged because at the PZA she stood up and said that her constituents did not want a McDonalds and she supported their views. She requested an opinion from Sisco because she understood that unless it was a personal gain to her, she was required by law to vote. Sisco stated that case law that deals with zoning lawsuits that has stated that personal beliefs of the commissioners, their previous statements, and their motives, unless they are fraudulent, do not disqualify them from voting on what they are charged to do by being a county commissioner. Sisco further stated that zoning is not a popularity contest, the courts have routinely said that the "clamor of the crowd" should not influence a zoning matter; zoning is quasi-judicial there are certain rights that a landowner has, should be based on the facts and the law but not necessarily on a popularity contest or the clamor of the crowd. (3.0277) It was the general consensus of the Board to proceed. Moore requested the objection be put on the record that any of the members of this Body approach this quasi-judicial obligation having made up their mind and not giving us a chance to present our case. Moore addressed the question of legal entitlements and outlined the legal documents existing that establish zoning, uses, and a site plan for this particular piece of property. Moore stated that as to the undeveloped portion of Sawgrass Village, Phase II, according to the density that was approved in the final development plan, the undeveloped area (Phase III), could have 34,325 square feet of commercial retail space; the infrastructure providing support to that facility was designed for that. Moore stated that he believes he can show that it does not materially affect the safety or the welfare of anyone living in the Sawgrass Village area. Moore pointed out that the applicant is willing to drop from 34,325 square feet down to approximately 27,000 square feet of developed commercial retail space in Phase III, of which this constitutes 4,000; the net effect being that the space, when it's totally developed out, will not provide any more burden on the infrastructure than the infrastructure was designed to handle initially. Moore clarified that although the Planning and Zoning Staff Report makes reference to 23,000 square feet of total commercial space, it must have been mentioned in error in the report, because what is being talked about is a total of 23,000 square feet. Moore expressed concern that the PZA exceeded the scope of their authority at the first public hearing on this matter. Moore presented the Planning and Zoning Staff Report as Exhibit I, for the record. Moore referred to the case of Bailey vs The City of St. Augustine, and entered it into the record as Exhibit 2. Moore referred to the case of Foff vs City of South Miami and entered it into the record as Exhibit 3. Moore also made reference to Florida Statute Section 380.0615 (c)(3). Moore stated that at the PZA it was stated that TPC Boulevard was intended to be a residential access way for the residential areas there, an exclusively residential access way; pointed out that it was never intended to be exclusively a private road, a private residential access way for Sawgrass Village development. Moore explained his basis for that and reviewed and discussed the Declaration of Covenants for Sawgrass Village as were recorded for Public Record. (3.1142) Ira Levenshon, Sawgrass Village Drive, was present representing ABG Property Development. Levenshon presented a video of the property in question and the surrounding properties. (3.1381) Don Smith of BHR, 1900 Corporate Square