

ORDER OF THE
BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

RE: Marker Island
Arvida/JMB Partners
c/o John G. Metcalf, Esq.
Pappas & Metcalf
3301 Independent Square
Jacksonville, FL 32202

ORDER APPROVING WITHDRAWAL OF APPEAL PERTAINING
TO MARKER ISLAND MODIFICATION, FINAL DEVELOPMENT PLAN,
AND SUBDIVISION PLAT; DENYING THE SUBDIVISION PLAT;
DENYING THE MODIFICATION PERTAINING TO THE FINAL
DEVELOPMENT PLAN; DENYING THE FINAL DEVELOPMENT PLAN
AND IMPOSING CERTAIN TIME RESTRICTIONS.

Background

On September 3, 1992, the Planning and Zoning Agency (PZA) reviewed and approved the applicant's request for a minor modification to PUD Ord. 75-15 pursuant to Section 8-2-4(A) of the Zoning Ordinance. The minor modification request changed the use designation of Parcels 3 and 8 as shown on the approved master development plan from multi-family and patio home lots, respectively, to single family. The minor modification request also changed the density within Parcel 3 from 237 units to 95 units and the density within Parcels 7, 8 and 9 from a total of 171 units to 80 units. The net result of the proposed modification was to reduce overall project density by 233 units. The PZA also approved a final development plan and subdivision plat for an 81 unit subdivision known as Marker Island, to be located in Parcel 3.

The minor modification did not require review by the Board of County Commissioners (Board) under Section 8-2-4(A) of the Zoning Ordinance, but the final development plan and subdivision plat for Marker Island was set for Board review on October 13, 1992.

When the final development plan for Marker Island was considered by the Board on October 13, 1992, considerable discussion ensued regarding access to the Marker Island subdivision from Seven Mile Drive, an existing roadway, and the effects the access would have on residents of Seven Mile Drive. A question arose as to whether the proposed Seven Mile Drive access to Marker Island is an allowable access under the master development plan adopted in PUD Ord. 75-15. Nearby residents objected to the use of an entrance not identified on the adopted master development plan map, and complained that they had inadequate notice of the September 3, 1992 PZA proceeding (although at least two area residents did appear and objected to part of the proposal).

In light of the questions, the Board referred the matter back to the PZA for further consideration. It was set for the November 19, 1992 PZA meeting. Prior the PZA meeting, the applicant addressed the complaints about lack of notice by complying with all procedural requirements under Section 8-2-4 of the Zoning Ordinance for both minor and nonminor PUD adjustments. Under this procedure, notices of the November 19, 1992 PZA hearing and the December 8, 1992 Board meeting on Marker Island

were mailed to landowners within 300 feet of the proposed subdivision entrance, and advertisements were published.

On November 19, 1992, the PZA heard the matter again. The hearing was lengthy with testimony and cross examination of approximately 25 witnesses. The applicant was represented by John G. Metcalf, Esq., and the opposing landowners were represented by Baron L. Bartlett, Esq. Both sides presented testimony from expert witnesses and introduced traffic studies into the record. The proceedings are summarized in the minutes of the PZA meeting, which are part of the record of the Board's instant proceedings.

At the conclusion of the hearing, the PZA voted on a motion to rescind its action of September 3, 1992. Five PZA members voted. (Six members were present, but one abstained due to a conflict of interest.) The vote was three in favor; two opposed. Under Section 11-7-3 of the Zoning Ordinance, which requires at least four affirmative votes for approval, the motion was denied. Therefore, the PZA deemed its action of September 3, 1992 approving the minor modification to PUD Ord. 75-15 and recommending approval of the Marker Island final development plan and subdivision plat to be valid.

On November 23, 1992, Baron L. Bartlett, Esq., representing the opposing residents, filed an appeal of the PZA action. On December 1, 1992, the Board held a public workshop on the Marker Island site. The workshop included a bus tour of the site and surrounding areas. No action was taken by the Board. The matter was scheduled before the Board again on December 8,

1992 on the appeal and for Board consideration of the PZA's recommendation of approval on the Marker Island final development plan and subdivision plat.

However, on December 4, 1992, the applicant's attorney sent a letter to the Chairman of the Board withdrawing the modification application filed October 19, 1992 and the final development plan and subdivision plat for Marker Island approved by the PZA on September 3, 1992. See Exhibit A. The withdrawal did not affect the minor modification approved by the PZA on September 3, 1992, which reduced the density within Parcels 3, 7, 8, and 9 in PUD Ord. 75-15. In response to the notice of withdrawal, the appellants, represented by Baron L. Bartlett, Esq., withdrew their appeal as moot.

The Board has considered both the applicant's and appellants' requests for withdrawal. In withdrawal requests where PZA recommendations are before the Board and a public hearing has been set, noticed, and advertised, the Board may deny the pending application, based upon the withdrawal request; and impose a one year restriction against refiling, which one year restriction can be waived by a majority of the Board.

Accordingly, the Board hereby grants the appellants' request to withdraw their appeal. Further, the Board hereby denies the application for the Marker Island modification pertaining to the final development plan; it denies the final development plan; and it denies the subdivision plat all based on the applicant's notice of withdrawal. The applicant may not reapply for final development plan approval on the Marker Island

site for one year from the date of this action, if such final development plan uses an entrance from Seven Mile Drive or from any lands within the final development plan for Seven Mile Drive, Phase I and Phase II, and/or Sawgrass Island, unless the applicant requests a waiver of the one year restriction and a majority of the Board approves the waiver.

Date of Commission action December 8, 1992.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: *Rina Balouage*
Its Chairman

ATTEST: CARL "BUD" MARKEL, CLERK

By: *Irma Paetli*
Deputy Clerk

Copies to: John G. Metcalf, Esq.
Baron L. Bartlett, Esq.
Planning and Zoning Agency

furnished a more detailed information on the subject property. Discussion continued. (3.0081) Motion by Maguire, seconded by Roberts, failed 2/5, with Ward, Brinkhoff, Floyd, Jordan, and Balsavage dissenting to change section II, that a construction bond will not be required.

Motion by Maguire, seconded by Floyd, carried 7/0, to approve the resolution as written.

RESOLUTION NO. 92-209

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA APPROVING A SUBDIVISION PLAT FOR VILLAGES OF VILANO UNIT III.

(12/08/92 - 6 - 3.0181)

PUBLIC HEARING - RESOLUTION - VACATING A PORTION OF ICE PLANT ROAD - (Applicant, Marlboro Industrial Park) - Representative, Roger Yarbrough - This involves a petition to vacate a 500' portion of Ice Plant Road lying 243 +/- feet Northeast of Arapaho Avenue within the Marlboro Industrial Park. Subject to the applicant providing an easement to Florida Power & Light for utility pole maintenance, the Planning and Zoning Agency recommended approval of the vacation on October 5, 1992. Staff concurs with the Agency action and recommends approval of the resolution.

Proof of publication of notice of public hearing regarding resolution - vacating a portion of Ice Plant Road was received, having been published in The St. Augustine Record on November 16, 1992.

Napier aired this item involves the vacation of the right-away; stated that the Planning and Zoning Agency recommended approval; staff concurs with the agency action, and recommends approval of the resolution. Motion by Floyd, seconded by Brinkhoff, carried 7/0, to approve the resolution.

RESOLUTION NO 92-210

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA VACATING A PORTION OF ICE PLANT ROAD AS MORE FULLY DESCRIBED BELOW.

(12/08/92 - 6 - 3.0245)

PUBLIC HEARING - ORDINANCE - R-92-018 MARC P. AND JANET E. SOKOLAY - Request to rezone from RS-2 with conditions to allow the division of the property which is 15.41 acres into four lots. The property is located at 2950 Kings Road. The Planning and Zoning Agency recommended approval on October 1, 1992 by unanimous vote. Staff concurs with the Agency recommendation.

Proof of publication of notice of public hearing regarding - R-92-018 was received, having been published in The St. Augustine Record on October 29, 1992.

Jerry Napier, Planning Director, gave a general overview of the project. Motion by Ward, seconded by Floyd, carried 7/0, to approve Ordinance No. 92-43.

ORDINANCE NO 92-43

AN ORDINANCE OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA, REZONING LANDS AS DESCRIBED HEREINAFTER FROM THE PRESENT ZONING CLASSIFICATION OF RS-2, SINGLE FAMILY RESIDENTIAL WITH CERTAIN CONDITIONS, TO RS-2, SINGLE FAMILY RESIDENTIAL, WITH CERTAIN CONDITIONS; REQUIRING RECORDATION; AND PROVIDING AN EFFECTIVE DATE.

(12/08/92 - 7 - 3.0347)

PUBLIC HEARING - RESOLUTION - FINAL PLAN - MARKER ISLAND - (Applicant, Arvida/JMB) - Representative, John G. Metcalf - Final Development Plan is for 81 single family homes on 34.66 acres off Seven Mile Drive within Players Club at Sawgrass PUD. The Planning and Zoning Agency reconsidered this item in public hearing on November 19, 1992 and did not alter its previous action of September 3, 1992 recommending approval of the Final Development Plan.

PUBLIC HEARING - RESOLUTION - FINAL PLAT - MARKER ISLAND - (Applicant, Arvida/JMB) - Representative, John G. Metcalf - Final Plat as referred above. A construction bond waiver is requested consistent with Board actions on previous Arvida/JMB Partners Plats within the Players Club at Sawgrass PUD. If the Board approves the Final Development Plan without modifications, the PZA and staff recommends approval of the Final Plat.

Jerry Napier advised that item 16 involves public hearings on resolutions for a proposed Final Development Plan, and Final Plat for Marker Island. This item also involves an appeal by Baron Bartlett concerning a PZA action of November 19, 1992. On December 4, the Board received a letter from the applicant's representative John Metcalf withdrawing the applications for the Final Development Plan, and Final Plat, and based on the notice of withdrawal Mr. Bartlett has withdrawn the appeal. Linda Hurst, Assistant County Attorney, read the Order approving withdrawal into the record. (3.0467) Baron Bartlett stated that in behalf of the Sawgrass Island Community, and Seven Mile Drive, in conjunction with the stipulated Order Draft D, they agree to the withdrawal of the appeal. Motion by Brinkhoff, seconded by Floyd, carried 7/0, to approve the adoption of Draft D.

(12/08/92 - 7 - 3.0500)

PUBLIC HEARING - ORDINANCE - R-PUD-92-017 - THE SANCHEZ GRANT - (Applicant, Crisp Lingerfelt Company) - Representative, Don Smith, BHR, Inc. - The request involves the rezoning of 483.9 acres on CR 210A from OR to PUD to permit development of a residential community of up to 637 single family units with associated commercial, recreational and public use areas. The Planning and Zoning Agency reviewed the application and recommended denial by a 5 to 3 vote on October 15, 1992. Staff had suggested a possible continuance of the PZA hearing to resolve outstanding staff comments and questions as well as issues arising from public input. Since the PZA hearing, the applicant has incorporated changes to the text, maps and ordinance addressing staff comments and recommendations.

Proof of publication of the notice of public hearing on a rezoning ordinance was received, having been published in The St. Augustine Record on November 6, 1992 was ordered filed.

Jerry Napier gave an overview of the proposed rezoning; stated staff feels that the project is consistent with the Comprehensive Plan, and recommends approval of the Ordinance. (3.0986) Don Smith, BHR, Inc., introduced those involved with the project, and gave a detailed review of the project by way of maps and grafts. (3.2268) Charles Space, 1900 Corporate Square, Jacksonville, gave a detailed explanation of the drainage program. Questions by the Commissioners followed. (3.3024) Susan McDonald, Rogers, Towers, Bailey, Jones, and Gay, 1301 Gulf Life Drive, Jacksonville, Florida, gave a brief overview of the application and the presentation of the project. (3.3598) Mel Kutzer, Chairman of the PZA, said that he had been requested by the majority of the members who voted for denial of the application to read a prepared statement. Kutzer read the statement into the record. Discussion continued. (3.3778) Napier explained that what the Board needed to do was to continued the hearing to a time certain to give time to the PZA to further review the project. Napier suggested January 26, 1992 for the next public hearing.

PUBLIC COMMENTS: Agenda Item #17 - The Sanchez Grant.

(4.0226) Tom West, 100 Possum Trot Rd, Ponte Vedra, spoke in favor of the project.
(4.0241) Durham Parker, 250 South Roscoe Boulevard, spoke in favor of the project.

(4.0355) Mary Kohnke, 29 South Roscoe, spoke against the proposed project.
(4.0530) Mary Voutour, Palm Valley, spoke against the proposed project.
(4.0603) Bill Jebson, Vice-President Palm Valley Community Association, 164 South Roscoe Boulevard, spoke against the proposed project.
(4.0822) Linda Gay, 567 Canal Road, spoke against the proposed project.
(4.0949) Marie Church, 97 South Roscoe Blvd., spoke against the proposed project.
(4.1095) Clayton Glaze, 559 Canal Road, is opposed to the proposed project.
(4.1149) Barbara Zasel, 163 Royal Palm Drive, spoke against the proposed project.
(4.1238) Rob Eggers, 186 North Roscoe Boulevard, Sierra Club read a resolution which was presented to the PZA on October 15, 1992, requesting that the current zoning standard be upheld and that any attempt to change the zoning to allow for development and/or destruction of existing wetlands will be challenged by the Sierra Club.
(4.1339) Commander A. M. Roberts, 65 South Roscoe Blvd., spoke against the proposed project.