

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

RE: Oussama Koleilat
c/o Xavier L. Pellicer III
906 Anastasia Blvd.
St. Augustine, FL 32084

FILE NUMBER: E-92-051

ORDER REVERSING ACTION OF
THE PLANNING AND ZONING AGENCY

The above-referenced applicant requested an exception pursuant to the St. Johns County Zoning Ordinance for the use of retail sales of convenience goods and for the sale of beer and wine for off premises consumption on Parcel 2-1, Section 9, Township 8 South, Range 29 East, St. Johns County, currently zoned CHT at the intersection of State Road 207 and Interstate No. 95. The applicant owns an existing service station at the site, called Koleilat Brothers' Amoco Station. The existing service station has an exception to allow the sale of beer and wine for off premises consumption. Mr. Koleilat intends to construct a second building for the purpose of expanding his business, and requested an exception to allow the sale of beer and wine for off premises consumption in the new building.

On August 6, 1992, the matter went before the Planning and Zoning Agency (Agency) for public hearing. The Agency granted that part of the request for an exception to allow the use of retail sales of convenience goods, but denied the request for an exception to allow the sale of beer and wine for off

premises consumption. The applicant filed a timely appeal of the Agency's action denying the exception for sale of beer and wine on August 27, 1992. On October 27, 1992, the appeal came before the St. Johns County Board of County Commissioners.

FINDINGS OF FACT AND ORDER

Having considered the application for appeal and supporting documents; the August 6, 1992 Agency minutes; the Agency order dated August 17, 1992; the planning and zoning department staff report dated August 6, 1992 and its supporting documents; and statements from the appellant, the Board of County Commissioners makes the following findings of fact:

1. The appeal of the Agency action was properly filed in a timely manner;

2. The appeal of the Agency's action denying the request for an exception to allow the sale of beer and wine for off premises consumption has been fully considered after public hearing pursuant to legal notice as required by law and the Zoning Code;

3. The sale of beer and wine for off site consumption is a permissible use by exception under section 5-7-3 of the Zoning Code;

4. The applicant has met the requirements of sections 6-1-26 and 7-16-13 of the Zoning Code;

5. There are at least three similar businesses at the same State Road 207/I-95 intersection which sell both gasoline and beer and wine for off premises consumption;

6. The Agency found that the sale of beer and wine at the subject location would not be inconsistent with the Comprehensive Plan, which finding the Board hereby adopts;

7. The staff report of August 6, 1992 reported that the requested exception would not be incompatible with the area and appeared consistent with the intent of the CHT zoning district, which statement is hereby adopted by the Board of County Commissioners and incorporated herein.

NOW, THEREFORE, in consideration of the above, the Board hereby reverses that portion of the Agency's order which denies the exception of sale of beer and wine for off premises consumption. The applicant is granted an exception to allow the sale of beer and wine for off premises consumption in the proposed new building at Koleilat Brothers' Amoco Station located at State Road 207/Interstate No. 95, as requested in E-92-051, with the condition that beer and wine will be sold by the

applicant either from the building existing on this date (service station) or the proposed new building (convenience store) and not from both at the same time. In addition, the exception to sell beer and wine for off-premises consumption shall be nontransferable.

Any appeal of this decision of the Board of County Commissioners may be made by filing a petition for writ of certiorari with the clerk of the circuit court of St. Johns County within 30 days.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

BY: *Fred Bilby*
Its Chairman

ATTEST: CARL "BUD" MARKEL, CLERK

BY: *Erma Sacetti*
Deputy Clerk

Copy to: Ousaama Koleilat
c/o Xavier L. Pellicer III

(10/27/92 - 10 - 3.0264)

16. Ordinance - R-PSD-92-010 - first Church of Christ Scientist represented by Len weeks - Rezoning from OR/CG to PSD to allow for a church and supporting facilities to be located within existing florist shop and offices. Property is located on Old Moultrie Road and contains a total of 4 acres of land. The Planning and zoning agency recommended approval on August 20, 1992 by unanimous vote. Staff concurs in Planning & Zoning Agency recommendation. Proof of publication of a public hearing on intent to consider an ordinance for rezoning was received; having been published in The St. Augustine Record on September 23, 1992.

Napier stated item #16, a public hearing on rezoning a 4 acres tract adjacent to the property in item #15; advised that it is to be used for a church. Planning and zoning agency recommended approval on August 20, 1992. Staff concurs in that recommendation. Motion by Herold, seconded by Roberts, carried 7/0, to approved Ordinance No. 92-37.

ORDINANCE NO. 92-37

AN ORDINANCE OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA, REZONING LANDS AS DESCRIBED HEREINAFTER FROM PRESENT ZONING CLASSIFICATION OF OR/CG TO PLANNED SPECIAL DEVELOPMENT (PSD).

(10/27/92 - 10 - 3.0296)

17. Ordinance - R-PSD-92-015 - Seaboard Sanitation, Inc. represented by Stephen W. Matchett - Rezoning from CI and IW to PSD to allow for commercial/office warehouse complex on land located on the east side of U.S. 1 North, south of CR210, containing 4.38 acres of land. The Planning & Zoning Agency recommended approval on September 3, 1992 by unanimous vote, staff concurs in Planning & Zoning Agency recommendation. Proof of publication of a public hearing on intent to consider an ordinance for rezoning was received; having been published in The St. Augustine Record on September 25, 1992.

Napier stated item #17, a public hearing on rezoning a 4 acres tract on the east side of U.S. #1 North, and south of CR 210, to allow for commercial/office/warehouse complex. The Planning and Zoning Agency recommended approval on September 3, 1992, staff concurs on that recommendation. (3.0320) Victor Martinelli, Ponte Vedra Beach questioned the nature of the commodities to be stored at the warehouse, and if there were any restrictions on what can be stored in the warehouse. Napier responded, and mentioned that a representative for Seaboard Sanitation was present who could give some specific for the warehouse. (3.0326) Stephen W. Matchett, 3886 Atlantic Boulevard disclosed the initial tenant owner and developer would be Nelson Plumbing; aired there would not be storing of hazardous materials, nor heavy industrial processing. Motion by Balsavage seconded by Floyd, carried 7/0, to approve Ordinance No. 92-38.

ORDINANCE NO. 92-38

AN ORDINANCE OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA, REZONING LANDS AS DESCRIBED HEREINAFTER FROM PRESENT ZONING CLASSIFICATION OF COMMERCIAL INTENSIVE (CI) AND INDUSTRIAL WAREHOUSING (IW) TO PLANNED SPECIAL DEVELOPMENT.

(10/27/92 - 10 - 3.0415)

18. Order - E-92-051 Oussama Koleilat, represented by Xavier Pellicer - Exception of sale of beer and wine for take out in convenience store. The applicant was approved for the location of a convenience store by the Planning & Zoning Agency on August 6, 1992 and was denied the sale of beer and wine for take out in this store on the same date. This appeal is to the part of the exception that requests beer and wine sales for take out. The property is located at the intersection of SR 207 and I-95, and is currently occupied by a service station under the same ownership. On August 6, 1992, the Planning & Zoning Agency denied the sale of beer and wine by 4-3 vote. The staff's opinion is that the exception would not be incompatible with the area and would appear to be consistent with the intent of the CHT district and the Comprehensive Plan. Proof of publication on a notice of public hearing for an appeal to exception of sale of beer and wine for take out in a convenience store was received having been published in The St. Augustine Record on September 14, 1992.

Napier noted that this was public hearing on an appeal of an action of the Planning and Zoning Board on August 6, 1992, denying an exception for the sale of beer and wine. The property is located at the intersection of SR 207 and I-95. Napier noted the applicant had two exceptions before the PZA, one for a convenience store, he presently has a service station at the site where he sells beer and wine, he was adding an additional building for the sale of convenience goods and wanted the beer and wine in that facility. Napier stated that the Agency did approve the exception for the convenience store, but by a 4/3 vote denied the exception for the wine. Napier noted that the Board had two Draft Orders; Draft A would reverse the action of the Planning and Zoning Agency, and grant the exception; Draft B would affirmed the action of the Planning and Zoning Agency, and deny the exception. Napier further stated that at the Planning & Zoning hearing regarding the exception, staffs opinion that the sale of beverages at the convenience store would be not be incompatible with the area, nor inconsistent with the Comprehensive Plan (3.0482) Xavier Pellicer, 906 Anastasia Boulevard, representing Mr. Koleilat concurred with Napier's statement; pointed out that they were not asking for anything unreasonable, and asked the Commissioners for approval. Discussion ensued. Motion by Roberts, seconded by Floyd, carried 7/0, for approval of Draft A Order. Discussion continued. Motion made by Floyd, seconded by Maguire, carried 7/0, to amend the wording of Draft A Order. Motion by Maguire, seconded by Balsavage, carried 7/0, to table this item for 15 minutes. Subsequently, Hurst stated that the last paragraph, page 3, of the Draft 'A' Order, would retain the existing language in the ad, with the condition that beer and wine would be sold by the applicant either from the building existing on this date (service station) or the proposed new building (convenience store) and not from both at the same time. In addition, the exception to sell beer and wine for off premises consumption shall be nontransferrable. Motion by Floyd, seconded by Herold, carried 7/0, to approve the wording of the amendment.

(10/27/92 - 11 - 3.0898)

19. Order - TUP-92-010 Sarah Bailey/Sierra of N.E. Florida - The request is for a temporary use permit to allow outdoor musical event as special event fundraiser on property located at 2202 Bishop Estates Road. The request is for one time only and pursuant to section 10-12 of the Zoning code is permitted by approval of the Board of County Commissioners and is not heard by the Planning & Zoning Agency. Note: The applicant is also requesting a waiver of filing fee as authorized by Resolution No. 92-117 for Community Support volunteer Organizations which benefit St. Johns County.

Proof of publication on a notice of public hearing for a request for a temporary use permit to allow outdoor musical event on property located at 2202 Bishop Estates Road was received having been published in The St. Augustine Record on October 14, 1992.

Napier stated that item #19 was a public hearing on a temporary use permit to allow outdoor musical event as a fund raiser for the Sierra Club of North East Florida, to be held at 2202 Bishop Estates Road, on November 7, 1992. Napier aired that they also are requesting waiver of the filing fee. Approval of the Order would permit the event and also waive the \$150.00 fee. Motion by Herold, seconded by Balsavage, carried 7/0, for approval of the Order for a temporary use permit, and waiver of the filing fee.

(10/27/92 - 11 - 3.0982)

Consent Agenda Item #6 - Authorization for Staff to exercise the Letter of Credit for Oakland Subdivision. Roberts referenced to a letter from Prosperity Bank extending the Letter of Credit until December 2, 1992. Maguire asked Campbell if the 30 days would be sufficient, or should the County grant the developer 60 days with the understanding that this would be that last extension. Extensive discussion followed. Givens stated that the term of the extension and the term of the Letter of Credit need to coincide. Motion by Maguire, seconded by Floyd, carried 7/0, to extend the expiration date up to January 15, 1993 upon receipt of their letter. Motion amended by Roberts, seconded by Herold, carried 6/1, with Maguire dissenting, to extend the expiration date to December 2, 1992.

(10/27/92 - 11 - 3.1178)

Consent Agenda #8 - Authorization for County Administrator to proceed with Manresa Road under Paving Assessment Program. Balsavage aired she was concerned that it did not clearly state that this was a 50/50 petition. Motion by Balsavage, seconded by Floyd, carried 7/0, to table until the next regular meeting on November 10, 1992.