

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

RE: Bertha J. Heaton
6200 SR 13 N
St. Augustine, FL 32092

FILE NO: E-94-072

ORDER ON APPEAL REVERSING
AND GRANTING EXCEPTION

RECEIVED
ST. JOHNS COUNTY

'95 JAN 12 A9:19

Carl B. Mundy
CLERK, COUNTY COMMISSIONERS

The above referenced applicant appeared before the Planning and Zoning Agency (Agency) on November 17, 1994, requesting a modification to existing exception which allows the sale/consumption on premises of beer and wine, to extend hours of sale from 8:00 p.m. to 10:00 p.m., at 6200 State Road 13, BDR FastStop. On November 17, 1994, the request was considered by the Planning and Zoning Agency, and by vote of 4/3, the request was denied.

The applicant filed an appeal of the Agency's action on November 22, 1994. On January 10, 1995, the matter came before the St. Johns County Board of County Commissioners (Board for hearing on the appeal.

FINDINGS OF FACT

Having considered said application for an exception, supporting documents in the record, the staff report of November 17, 1994, and statements from the applicant, staff and the public made at the public hearing; the Board of County Commissioners makes the following findings of fact:

1. The appeal was filed in a timely manner as provided in Section 11-9-6 of the Zoning Code and the law;
2. The application for appeal was duly heard in a public hearing pursuant to Zoning Code and the law;
3. The request to extend hours of sale/consumption of beer and wine is not detrimental to the health, safety and welfare of residents or workers in the area; and

4. The request to extend hours of sale/consumption of beer and wine is not contrary to public interest and is compatible with surrounding land development of the area.

ACCORDINGLY, the decision of the Agency denying the request for an exception is hereby reversed, and the request for an exception is **granted**, conditional on and limited to: no consumption of alcoholic beverages outside the structure, except as may be permitted in additional approvals by the Board of County Commissioners in compliance with Orders for Temporary Use Permits; the exception is non-transferable and there shall be no sale for consumption of alcoholic beverages on premises after 10:00 p.m.; however, the sale of alcoholic beverage for take-out, as currently permitted at this location is not affected by this Order.

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

Date of Commission action: January 10, 1995

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Barbara Ward
Its Chair - Barbara Ward

ATTEST: CARL "BUD" MARKEL, CLERK

By: Yvonne Carter
Deputy Clerk

cc: Bertha Heaton
Planning and Zoning Agency



(01/10/95 - 13 - 3.0355)

PUBLIC HEARING - APPEAL TO DENIAL OF ZONING EXCEPTION - E-94-072 - BERTHA J. HEATON. THE APPLICANT REQUESTED A MODIFICATION TO EXISTING EXCEPTION WHICH ALLOWS THE SALE/CONSUMPTION ON PREMISES OF BEER AND WINE, TO EXTEND THE HOURS OF SALE FROM 8:00 P.M. TO 10:00 P.M. AT 6200 STATE ROAD 13, BDR FASTSTOP. ON NOVEMBER 17, 1994 THE REQUEST WAS CONSIDERED BY THE PLANNING AND ZONING AGENCY, AND BY A VOTE OF 4-3, THE REQUEST WAS DENIED. ON NOVEMBER 22, 1994 THE APPLICANT FILED AN APPEAL.

Proof of publication of notice of public hearing on an appeal to denial of zoning exception -E-94-072 Bertha Heaton was received, having been published in The St. Augustine Record on December 10, 1994. Commissioner Maguire filed a memorandum of voting conflict. Napier explained the request for a modification to the existing exception. The request was denied by the Planning and Zoning Agency. On November 22, 1994 the applicant filed an appeal. (3.0399) Attorney Charles Pellicer, 28 Cordova Street, representing Mrs. Heaton spoke on behalf of approving the request and gave the Board background information to support reversing the decision of the Planning and Zoning Agency. (3.0603) Bertha Heaton, 6200 SR 13, owner of BDR FastStop gave a brief overview of her business. (3.0668) W. E. Gilstrap, 8255 Colee Cove Road, is in favor of the request. (3.0699) Robert Heaton, 6235 Jack Wright Island Road, voiced his support for the request. (3.0733) Lorene Puhl, 6240 SR 13, spoke in favor of the request. (3.0829) Phillip Wade, 6462 Jack Wright Island Road spoke in favor of the request. Mrs. Wade introduced 232 letters of support from residents of the area, also 42 letters of support from residents on Jack Wright Island Road. For a total of 274 residents giving their approval, and 349 signatures to support E-94-072. (3.0958) Allen Benson, 6419 Jack Wright Island Road, voiced opposition to the request for approving the exception. (3.1065) Melody Benson, 6419 Jack Wright Island Road, gave additional information regarding her opposition to extend the hours of sale of beer and wine at the BDR FastStop. Mrs. Benson submitted a report from the St. Johns County Sheriff's Office and a petition with 34 signatures. Comments by the Board followed. (3.1630) Motion by Jordan, seconded by Floyd, carried 6/0, with Maguire abstaining after filing a conflict of interest, to adopt the Order reversing PZA action and adopting Findings of Fact supporting the motion 1 thru 4, and suggested conditions 1 thru 3 on page 2. Maguire as required by law stated that he would not vote because of a conflict of interest, he owns property across from BDR FastStop.