

Date filed with Clerk

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

RE: C.E. DuPont
P.O. Box 847
Hastings, FL 32145

RECEIVED
ST. JOHNS COUNTY CLERK

'95 FEB 21 P1:59

FILE NO: E-94-074

ORDER AFFIRMING ACTION OF
AND GRANTING EXCEPTION

Carol Ann Murphy
PZA
CLERK, COUNTY COMMISSION

The above referenced applicant appeared before the Planning and Zoning Agency (Agency) on November 17, 1994 requesting an Exception to allow a borrow pit operation on the west side of CR13 South, north of Flagler Estates Boulevard, APO Section 6, Township 10 South, Range 29 East, St. Johns County Florida currently zoned OR.

An appeal of the Agency's decision was filed in a timely manner by Ms. Virginia M. Bosse who requested the Board of County Commissioners to reconsider the action of the Planning and Zoning Agency. On February 14, 1995, the matter came before the Board of County Commissioners of St. Johns County (Board) for hearing on the appeal.

FINDINGS OF FACT

Having considered the appeal application and supporting documents, Order of the Agency, staff report, original application and supporting documents, minutes of the Agency hearing and evidence of public hearing notice; the Board of County Commissioners makes the following findings of fact:

1. The appeal to approval of E-94-074 was filed in a timely manner and duly considered after public hearing pursuant to legal notice as required by law and the St. Johns County Zoning Ordinance;
2. The property described in E-94-074 permits a borrow pit operation by exception;
3. Approval of the request for a borrow pit with conditions would not appear to result in a compatibility problem or inconsistency with Section 6-1-26 of the County Zoning Ordinance;
4. The request is not inconsistent with the Comprehensive Plan.

ACCORDINGLY, the decision of the Agency granting the request for an exception is hereby affirmed and the request for an exception is **granted**, conditional on and limited to:

1. The borrow pit shall comply with letter from C.E. DuPont dated November 16, 1994 and site plan revised November 16, 1994 attached hereto and incorporated herein by reference;;

2. An 8 foot high fence shall be placed around the pit areas;

3. If trees are harvested, a 50 foot natural buffer shall remain undisturbed along the south, east and west property lines;

4. One sign may be placed on the property with a maximum of 24 square feet;

5. The exception shall be non-transferable and shall not run with the sale of the land;

6. The borrow pit operation shall not exceed a maximum of five years; and

7. The use granted by this exception shall be commenced within one year of the date of the Order of the Board of County Commissioners or all rights granted herein shall become invalid.

Any appeal of this decision 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 of the date this Order is rendered.

Date of Commission action: February 14, 1995

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Barbara Ward
Its Chair

ATTEST: CARL "BUD" MARKEL, CLERK

By: Anna Beeth
Deputy Clerk

cc: Planning and Zoning Agency
Virginia Bosse
C.E. DuPont

E-94-074

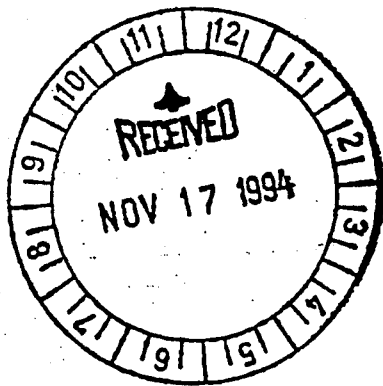
C.E. DuPont
P. O. Box 847
Hastings, FL 32145

To the Planning and Zoning Director
Jerry Mayior and other

Subject: To down grade Borrow pit number from
8 To B - 45,000 sq. ft. 14.5 ft deep. 2 1/2' to 1' slope

Hope this is not too late of a date to change plans.
Copy of revised plot attached.

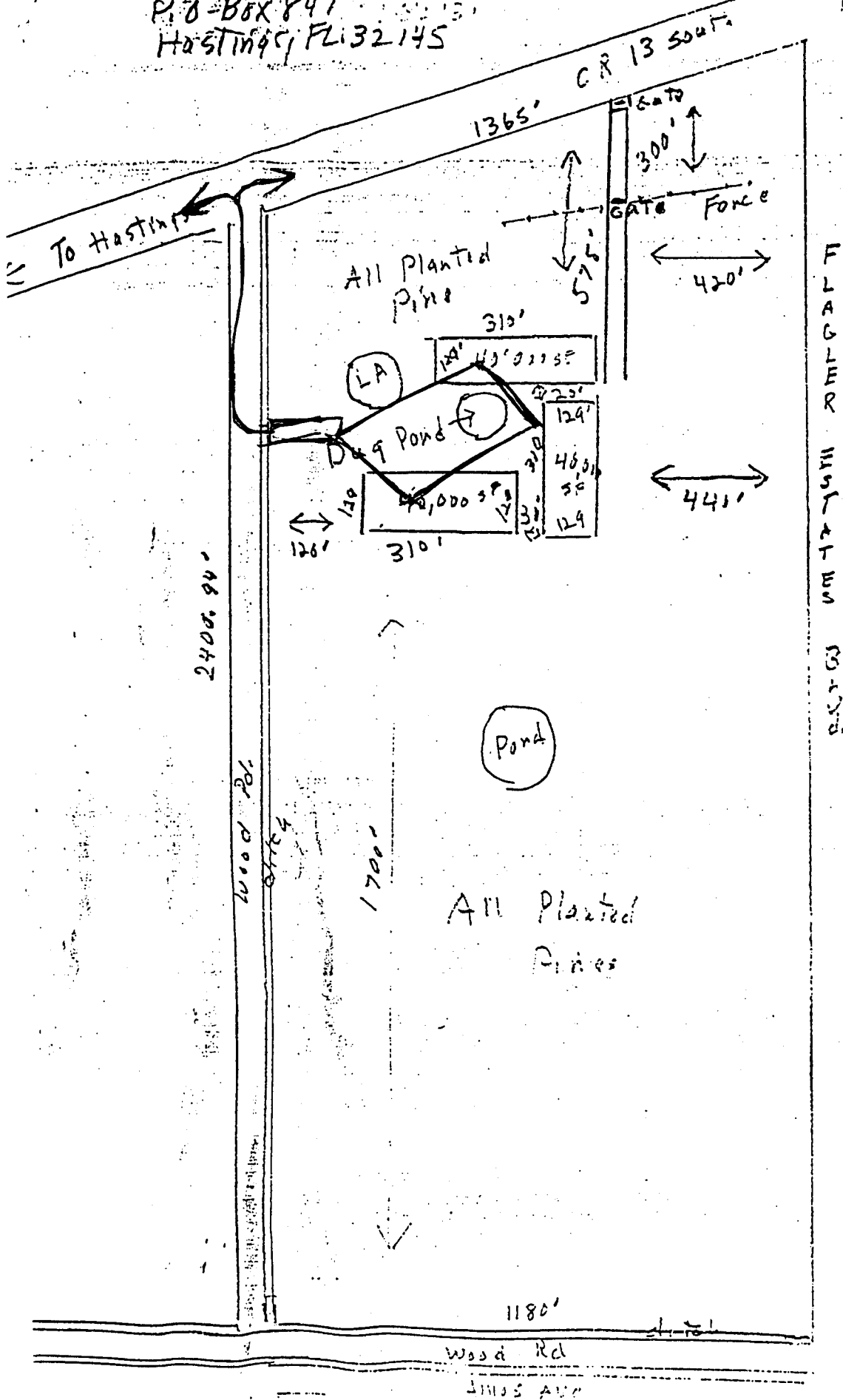
Thank you very much
C.E. DuPont



Revised Nov. 16, 1994

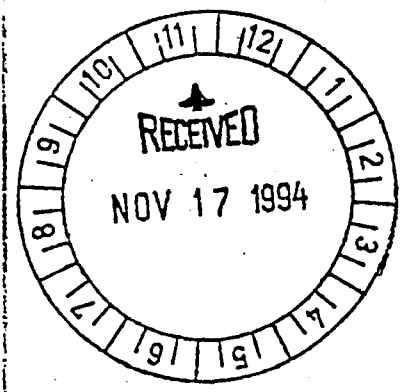
C. E. DuPont
P.O. Box 847
Hastings, FL 32145

To 25th →



FLAGLER COUNTY

305/1525



ditch

Discussion followed. Napier at the request of Meiszer, stated that there were no citation issued only warnings. Discussion continued. Bosanko recommended that the Board's motion to approve should limit the period to comply to whatever the Board thinks is appropriate. (7.0042) Clyde Wolfe offered additional information on this issue. (7.0090) Randy Wright, P. O. Box 93, St. Augustine, asked the Board to allow Usina to keep his horse for only 90 days and then be directed to move it. Motion by Cody, seconded by Jordan, carried 6/0, to approve the proposed Findings of Fact 1 thru 4 to support reversal of the Planning and Zoning Agency decision. The request for an exception and variance is granted, conditional on and limited to:

- 1) The exception/variance shall be limited to 6 months or earlier, if the applicant no longer resides on the lot, and shall be limited to one horse only.
- 2) The exception/variance shall be non-transferable and shall not run with the sale of land.

Meiszer commented on the way this issue was handled by the Code Enforcement Department; said that the inspector was not told to cite anyone, and that there was no reason to mention the video tape at all.

(02/14/95 - 14 - 7.0384)

PUBLIC HEARING - REZONING - R-94-017 - WILLIAM BRYANT. THE REQUEST IS TO REZONE A 75 FT. X 125 FT. LOT FROM CN, COMMERCIAL NEIGHBORHOOD TO RMS-S, RESIDENTIAL MOBILE HOME, SINGLE FAMILY. THE APPLICANT, AFTER BOARD OF COUNTY COMMISSIONERS HEARING ON JANUARY 10, 1995 HAS REMOVED THE CONDITIONAL PORTION OF THE REZONING REQUEST REGARDING THE EFFECTIVE DATE OF THE ORDINANCE, AND REQUESTS THAT THE BOARD CONSIDER THE APPLICATION AS STRAIGHT REZONING TO RMH-S. THE PROPERTY IS LOCATED ON COSTANERO ROAD, TREASURE BEACH, AND BACKS UP TO COMMERCIAL LOTS ALONG AIA. OTHER PARCELS ALONG COSTANERO ROAD HAVE BEEN REZONED TO RMH-S. ON NOVEMBER 3, 1994 THE PLANNING AND ZONING AGENCY CONSIDERED THE REQUEST AND BY UNANIMOUS VOTE, RECOMMENDED APPROVAL.

Proof of publication of notice of continued public hearing on the rezoning request R-94-017 William P. Bryant was received having been published in The St. Augustine Record on January 14, 1995.

Napier explained that this item was continued from the January 24, 1995 meeting; said that the request is to rezone one lot at Treasure Beach. The applicant has removed the conditional portion of the rezoning request regarding the effective date of the ordinance. Napier recommended approval of the rezoning ordinance. Motion by Roberts, seconded by Jordan, carried 6/0, to adopt Ordinance, adopting Findings of Fact in section 1 of said ordinance, rezoning land from CN to RMH-S.

ORDINANCE NO. 95-02

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, STATE OF FLORIDA, REZONING LANDS AS DESCRIBED HEREINAFTER FROM THE PRESENT ZONING CLASSIFICATION OF CON, COMMERCIAL NEIGHBORHOOD, TO RMH-S, RESIDENTIAL MOBILE HOME, SINGLE FAMILY; MAKING FINDINGS OF FACT; REQUIRING RECORDATION; AND PROVIDING AN EFFECTIVE DATE

(02/14/95 - 14 - 7.0440)

PUBLIC HEARING - APPEAL TO PZA DECISION/WHICH WAS AN APPROVAL TO ZONING EXCEPTION - ORDER - THE APPELLANT APPLICANT IS VIRGINIA M. BOSSE AND THE APPLICANT WAS C. E. DUPONT. THE APPEAL IS FILED FOR A DECISION OF THE PLANNING AND ZONING AGENCY, WHICH WAS THE APPROVAL OF THE LOCATION OF A BORROW-PIT, LOCATED ON THE WEST SIDE OF CR 13A, NORTH OF FLAGLER ESTATES. ON NOVEMBER 17, 1994 THE AGENCY GRANTED THE BORROW-PIT WITH THE FOLLOWING CONDITIONS;

COMPLIANCE WITH LETTER AND SITE PLAN DATED NOVEMBER 16, 1994; 8 FT. HIGH FENCING AROUND THE PIT AREAS; A 50 FOOT NATURAL BUFFER WILL REMAIN UNDISTURBED ALONG THE SOUTH, EAST AND WEST PROPERTY LINES; ONE SIGN, MAXIMUM SIZE OF 24 SQ. FT. NON-TRANSFERABLE; MAXIMUM OPERATION OF FIVE YEARS. THE APPEAL APPLICANT, MS. BOSSE, FILED THE APPEAL IN A TIMELY MANNER AND HAS REQUESTED THE BOARD OF COUNTY COMMISSIONERS RECONSIDER THE ACTION OF THE AGENCY.

Proof of publication of notice of public hearing on the appeal to PZA Decision E-94-074 was received having been published in The St. Augustine Record on January 20, 1995.

Napier explained the Planning and Zoning Agency decision to grant an exception to operate a borrow-pit to C.E. Dupont. Staff recommendation is that the PZA decision be upheld subject to the conditions contained in the Order of the PZA dated Nov. 22, 1994. (7.0760) Virginia S. Teel, 10125 Crotty Ave. Flagler Estates, reviewed her objections to the borrow pit. Mrs. Teel asked the commissioners to deny the approval of a borrow pit and reverse the Planning and Zoning Agency 's decision. (7.0752) Richard J. Gross, 3600 Leo Court, Racine, Wisconsin, voiced his objection to the borrow pit, and asked that the appeal be granted. Mr. Gross owns land in Flagler Estates and plans to build a home in the future. (7.0791) Virginia Bosse, 9605 Amos Ave. Hastings, Florida read a prepared statement (a copy of the document was given to the Commissioners) in which she described the location of her property in relation to the borrow pit; mentioned that the land use is in opposition to the purpose of the Comprehensive Plan. Mrs. Bosse concluded by reading from a letter that was faxed to her, the letter is from the Water Management District to Mr. Dupont concerning the proposed borrow pit and the inspection conducted by the District. (7.1147) Chrit Hoskins, 4000 Flagler Estate Boulevard, Hastings, voiced his opposition to the borrow pit (7.1184) Joseph Bosse, 9605 Amos Ave. Hastings, spoke in opposition to the exception. (7.1331) Dante Salamone, 5225 Datil Pepper Road commented. (7.1411) Clyde Powers commented in favor of the exception. (7.1477) Eddy Harris, 10560 Yeager Avenue, Flagler Estates commented in favor of the exception. (7.1523) Claudette Chappell, 9920 McMahon Avenue, Hastings, commented in favor of granting the exception. (7.1553) Bobby White, 6375 CR 13 South, representing Mr. Dupont, spoke on the request for an exception; ask the Board to uphold the Planning and Zoning decision approving the Exception. Mr. White answered questions addressed to him by the Commissioners. (7.1985) C.E. Dupont, Rt 1, Box 142, Palatka, gave additional information that was requested by Commissioner Jordan. (7.1960) Motion by Robert, seconded by Maguire, carried 5/1, with Rowe opposing, to uphold the PZA decision, approving the borrow pit with the conditions contained in the Order of the PZA dated Nov. 22, 1994, adopting Findings of Fact to support the motion.

(02/14/95 - 15 - 7.2165)

SETTLEMENT AGREEMENT - ABG REAL ESTATE DEVELOPMENT CO. ON JUNE 24, 1994, AFTER PROTRACTED LITIGATION ON PROPOSALS TO LOCATE A FAST FOOD RESTAURANT WITHIN THE SAWGRASS VILLAGE SHOPPING CENTER, THE BOARD OF COUNTY COMMISSIONERS APPROVED A NEW HOTEL COMPLEX FINAL DEVELOPMENT PLAN FOR THE CENTER THAT WOULD PRECLUDE CONCURRENT DEVELOPMENT OF THE FAST FOOD RESTAURANT PROPOSAL. THE DEVELOPER THEN PROPOSED TO WITHDRAW THE FAST FOOD RESTAURANT APPLICATION AS PART OF A LITIGATION SETTLEMENT AGREEMENT THAT HE WOULD SUBMIT. SUBMISSION OF AN ACTION ON SUCH SETTLEMENT AGREEMENT HAS NOW BEEN CONTINUED SEVERAL TIMES (MOST RECENTLY UNTIL FEBRUARY 14, 1995) TO ALLOW THE APPLICANT ABG, TO RESOLVE DEVELOPMENT ISSUES NECESSARY FOR GOING FORWARD WITH THE HOTEL COMPLEX. ABG NOW REQUESTS ANOTHER CONTINUANCE BY LETTER. IF THIS MATTER IS NOT CONTINUED OR UPON DETERMINATION THAT NO SETTLEMENT IS FORTHCOMING, A FINAL HEARING DATE SHOULD BE SET AND ADVERTISED FOR THE FAST FOOD RESTAURANT PROPOSAL. ABG HAS COMMITTED TO PAY FOR READVERTISING OF THE CONTINUED HEARING. REQUEST CONTINUANCE UNTIL APRIL 11, 1995 AT 1:30 P.M.