

RESOLUTION NO. 92- 63

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA RESPONDING TO A VERIFIED COMPLAINT FILED AGAINST THE BOARD OF COUNTY COMMISSIONERS PURSUANT TO SECTION 163.3215, FLA. STAT., ON OR ABOUT MARCH 12, 1992.

WHEREAS, Fred L. Ahern, Fred L. Ahern, Jr., and the estate of Lenore A. Anderson (Ahern) have filed a verified complaint against St. Johns County (County) pursuant to §163.3215, Fla. Stat., complaining that the Board of County Commissioners (Board), at a public hearing on February 11, 1992, improperly denied Ahern's application for rezoning of certain property in the County.

WHEREAS, the Board desires to respond to the allegations in the complaint and to supplement the record of its February 11, 1992 hearing by clarifying the reasons for the denial.

BE IT RESOLVED this 7th day of April, 1992 by the Board of County Commissioners of St. Johns County, Florida as follows:

Section 1. By application PV-91-003 (PV-91-003), Ahern requested a rezoning of land within the Ponte Vedra Zoning District from R-1-C to Planned Special Development (PSD) for a development to be known as the Ponce de Leon Center. The real property consists of approximately .61 acres of land located in Ponte Vedra Beach, bounded by Marlin Ave. to the north, residential lots to the west and south, and SR 1A to the east. Ahern requested the rezoning for the purpose of constructing a two-story office building on

the site, and submitted a site plan showing the proposed building, parking, and other site improvements.

Section 2. On August 19, 1991, PV-91-003 was presented in public hearing before the Ponte Vedra Zoning Board (PVZB). Following a presentation by Ahern's agent, public comments from various residents of the area, and discussion, the PVZB moved to recommend denial on the following grounds:

A. No need exists for additional office space within the Ponte Vedra Zoning District.

B. The proposed PSD would have a negative effect on the character and property values of the surrounding residential community.

C. The proposed PSD would violate objective A.01.02, Control of Urban Sprawl, of the County comprehensive plan.

D. The proposed PSD fails to meet the requirements of the Ponte Vedra Zoning Regulations, Section VII, paragraphs D2a(1), (2), and (4), which require findings that:

- (1) The proposed PSD does not affect adversely the orderly development or use of the Ponte Vedra Zoning District.
- (2) The proposed PSD will not affect adversely the health and safety of the residents or workers in the area and will not be detrimental to the natural environment or development of adjacent properties or the general neighborhood.
- (4) The proposed PSD is consistent with all limitations on commercial development contained in the comprehensive plan.

Section 3. On September 5, 1991, PV-91-003 was presented to the St. Johns County Planning and Zoning Agency (PZA), solely for consideration of consistency with the comprehensive plan. Following a presentation by Ahern's agent, comments from staff, and discussion, the PZA found the proposed PSD consistent with the comprehensive plan. Pursuant to §163.3174, Fla. Stat., the PZA finding on consistency was forwarded to the Board as a recommendation.

Section 4. On February 11, 1992, PV-91-003 was considered by the Board in a public hearing. After statements by Ahern's agent, comments from a PVZB member, comments from staff, comments from various residents and homeowner associations, discussion among the Board members, and consideration of all documents and reports presented to the Board, the Board denied the request for rezoning.

Section 5. Following the Board's denial, Ahern filed a verified complaint pursuant to §163.3215(4), Fla. Stat. Ahern complains that the Board's actions were inconsistent with the comprehensive plan and requests that the Board reconsider and grant PV-91-003.

Section 6. The Board hereby affirms its previous action denying PV-91-003, and specifically makes the following findings in support of that action:

A. The PZA's recommendation of consistency with the comprehensive plan is rejected by the Board because the proposed land use is incompatible with and does not further the objectives, policies, and land uses in the comprehensive plan and does not meet other criteria enumerated by the Board. (§163.3194(2)3a, Fla. Stat.)

B. The comprehensive plan designates the subject site as PV-2D, residential use of two to five units per acre. The site consists of the northerly 4 lots out of 12 fronting on SR 1A, all of which are zoned residential, and which back up to part of the De Leon Shores, a residential subdivision recorded in 1979.

C. The comprehensive plan objective A.01.03 instructs the County to locate future land uses so that adjacent land uses are compatible. Approval of a PSD permitting construction of an office building in a residentially zoned area and only ten feet from existing residences would violate this objective.

D. Although comprehensive plan policy A.01.03.07 would permit commercial development along SR 1A within a PSD, in this case, the Board finds that such a development would be inconsistent with the overall objectives for surrounding land use and that the proposed PSD is merely an attempt to disguise a commercial rezoning request as a PSD.

E. The substance of PV-91-003 is more in the nature of a request for rezoning residential property to commercial than a proper PSD application. Ahern appears to be attempting to use the PSD classification to avoid the restrictions in the

comprehensive plan for commercial development on SR A1A. Policy A.01.03.07 restricts commercial development along SR A1A in Ponte Vedra Beach only to land zoned to permit commercial development as of the date of the adoption of the plan. Additionally, the site plan of the proposed PSD does not meet the stated intent of the PSD ordinance, which requires a specific and creative approach to the development of land to accomplish a more desirable environment than would be possible through the strict application of minimum requirements of the zoning ordinance. It does not enhance the appearance of the neighborhood through preservation or provide an environment of stable character compatible with surrounding areas. Finally, the proposed PSD would place a two story office building within 10 feet of neighboring homes which would damage the property value of the surrounding existing residential area. See article 8A in the St. Johns County Zoning Ordinance, which has been incorporated into Section VIID of the Ponte Vedra Zoning Regulations.

F. The Board affirms the PVZB's finding that no need exists within the Ponte Vedra Zoning District, either now or in the foreseeable future, for additional professional office space. The Board further finds that protecting the residential designation of the site promotes orderly growth, avoids strip development, and encourages the most appropriate use of the land consistent with the public interest and welfare.

G. The Board affirms the recommendation of the PVZB and finds that the proposed PSD would encourage urban sprawl in conflict with comprehensive plan objective A.01.02.

H. The Board acknowledges the opposition of surrounding residential property owners and finds that the opinions of those residents are relevant under comprehensive plan objective A.01.03, which instructs the County to locate future land uses so that adjacent land uses are compatible. The Board emphasizes that this is only one of several factors considered by the Board in the denial of PV-91-003.

I. The Board finds that the proposed PSD does not meet the requirements in the Ponte Vedra Zoning Regulations and St. Johns County Zoning Ordinance for approval of a PSD. To the contrary, the Board finds that the proposed PSD would adversely affect the orderly development of the area under the comprehensive plan by changing residential property into commercial property; and that it would be detrimental to the value and development of adjacent residential properties.

J. The presence of convenience stores in the general vicinity does not change the character of the area to commercial, and is irrelevant to a determination of consistency with the comprehensive plan. However, the presence of the convenience stores does lend credence to the concerns about urban sprawl and strip development in the area.

K. Restricting the use of this property to residential would not result in a taking requiring compensation to the landowner.

L. Approval of PV-91-003 would result in changing a zoning classification which is consistent with the comprehensive plan to one which is inconsistent.

M. Although a concurrency determination is necessary prior to development pursuant to the County's Concurrency Management Ordinance (No. 91-7), the concurrency determination is apart from and irrelevant to a comprehensive plan consistency determination by the Board.

N. The proposed PSD does not meet the statutory definition of consistency with the comprehensive plan, stated in §163.3194(3)(a), Fla. Stat. Rather, the proposed PSD suggests a land use inconsistent with the comprehensive plan and incompatible with the objectives and policies stated therein. Furthermore, it fails to meet the criteria enumerated in the zoning ordinance for PSDs.

Section 7. This resolution shall be made part of the minutes of the February 11, 1992 public hearing on PV-91-003, and shall be part of the record for all purposes.

Adopted this 7th day of April, 1992.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Fred Bill
Its Chairman

ATTEST: CARL "BUD" MARKEL, CLERK

By: Yvonne Carter
Deputy Clerk