

RESOLUTION NO. 95- 194

**RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, STATE OF FLORIDA
APPROVING A FINAL DEVELOPMENT PLAN
FOR V.A.W. RETENTION AREA
LOCATED WITHIN THE PARCEL OF LAND
ZONED PUD PURSUANT TO ORDINANCE 79-73**

**PROVIDING FOR MODIFICATIONS IN RESPONSE TO THE
BERT J. HARRIS PRIVATE PROPERTY RIGHTS
JUDGEMENT OR ORDER**

WHEREAS, the Final Development Plan for V.A.W. of America, Inc. has been fully considered after public hearing pursuant to Section 8-3-2 of the St. Johns County Zoning Ordinance; and

WHEREAS, it is found that:

- A. The request received favorable review and recommendation by the Planning and Zoning agency at its meeting on 10/19/95; and
- B. The request is both consistent with the Comprehensive Plan and compatible with development patterns in the surrounding area;
- C. The request is consistent with the requirements of Section 8-3-2 of the Zoning Ordinance and with the requirements of PUD Ordinance 79-73; and
- D. The modification proposed does not impact the St. Augustine Shores DRI exemption status.

THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. Pursuant to a request for approval of a Final Development Plan for the V.A.W. Retention Area, made by Prosser, Hallock & Kristoff, Inc. on behalf of V.A.W. of America, Inc., in accordance with Section 8-3 of St. Johns County Zoning Ordinance, and subsequent review and approval by the St. Johns County Planning and Zoning Agency, the Final Development Plan attached hereto as Exhibit A relating to that portion of the PUD, is hereby approved in reliance upon, and in accordance with the representation and statements made herein and in the Final Development Plan attached hereto as Exhibit B, and based on the above referenced findings which are hereby incorporated herein by reference.

Section 2. Except to the extent that they conflict with specific provisions of the approved development plan or PUD Ordinance, all building code, zoning ordinance, and other land use and development regulations of St. Johns County, including, without limitation, any Concurrency Management

In & At: *[Signature]*,
Min & Rec.
Record in P.U.D.

Ordinances and the St. Johns County Comprehensive Plan, as may be amended from time to time shall be applicable to this development, except modification to approved development plans by variance or exception shall be prohibited. Particularly, no private land use covenant or restriction that may be incorporated into this Ordinance which is more strict than a particular Federal, State or County Statute, Ordinance, Regulation, Rule or Resolution shall be enforced by the County under this ordinance except as is specifically provided for and described in the Ordinance or the incorporated PUD narrative.

Unless the Board of County Commissioners demonstrates that compliance with the land development regulations is essential to the public health, safety or welfare, nothing in this section shall be deemed to: (a) supersede any applicable "grandfathering" or "vested rights" provisions contained in Florida law or that may be provided in any such future building code, zoning ordinance or other land use and development regulations; or (b) supersede any concurrency certificate or concurrency exemption determination made by the Concurrency Review Committee or the Board as such may be limited at the time of issuance. Furthermore, nothing in this section shall be deemed to constitute a waiver of the applicant's right to contest application of any such building code, zoning ordinance or other land development regulations as applied to this development under the Florida or United State Constitutions.

Section 3. The developer may not commence land clearing, site preparation or construction of any improvements within the FDP area until:

- a. Submission to the Engineering Department of satisfactory evidence that all required state and federal permits have been obtained, including, but not limited to United States Army Corps of Engineers Dredge and Fill Permit, St. Johns River Water Management District Management and Storage of Surface Waters Permit and Florida Department of Environmental Protection Water and Sewer Connection Permits;
- b. Issuance of a land clearing permit pursuant to St. Johns County Ordinance No. 90-11;
- c. Review and approval of signed and sealed construction plans by the St. Johns County Engineering Department in compliance with Ordinance 86-4; and
- d. Compliance with all other applicable land use and development regulations of St. Johns County.

Section 4. All attachments included herein are incorporated herein and made a part of Resolution 95-194

Section 5. This grant of approval for the V.A.W. of America, Inc. Retention Area Final Development Plan is subject to the following condition subsequent and possible modification: In the event a request for relief under the Bert J. Harris, Jr., Private Property Protection Act (Florida 1995) is timely filed against St. Johns County based in whole or in part on the County's enactment of this (Order/Ordinance) and such request for relief ultimately proceeds to or results in a final (all available appeals having been taken or waived) court order, opinion or judgement that adversely affects the County or that modifies this (Ordinance/Order) may be further modified by the St. Johns County Board of County Commissioners to the minimum extent necessary to alleviate or remedy the inordinate burden to real property that the final judgement, order or opinion determines was created by this (Ordinance/Order). Such modifications if made, shall comply with or mirror the court order, opinion or judgement to the extent such modifications are set out, described, or implied in or by such court

order, opinion, or judgement. The (owner/applicant's) reliance or use of this (Ordinance/Order) to the benefit of the (owner/applicant) shall constitute the (owner/applicant's) waiver of all claims of the (owner/applicant) against St. Johns County that may be based in whole or in part on such modifications. However, the foregoing provisions of this section shall be null and void if the Florida Attorney General responds to the St. Johns County Commissioners Attorney General's Opinion request authorized on October 10, 1995, and opines in substance that the Bert J. Harris, Jr., Private Property Rights Protection Act (1995) solely provides for a cause of action for owners of property or property owners who are specifically named subject or object of government action upon which the particular Bert J. Harris., Private Property Rights Protection claim is based. If the Florida Attorney General does not respond or does not opine as so stated, this Section shall remain in full force and effect until otherwise amended by St. Johns County Board of County Commissioners or by judicial determination.

PASSED AND ADOPTED this 14th day of November, 1995.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: *Barbara Ward*
Chair

ATTEST: CARL "BUD" MARKEL, CLERK

By: *Rosemary Ferris*
Deputy Clerk

**FINAL DEVELOPMENT PLAN
ST. AUGUSTINE SHORES PUD
PUD ORDINANCE NO. 79-73**

V.A.W. RETENTION AREA

**EXHIBIT B
TO THE RESOLUTION
October 5, 1995**

**P.U.D. OFF. REC.
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**Applicant: V.A.W. of America, Inc.
Agent: Prosser, Hallock & Kristoff, Inc.**

On behalf of V.A.W. of America, Inc., Prosser, Hallock & Kristoff, Inc. hereby submits, for approval by the St. Johns County Planning and Zoning Board and the St. Johns County Board of County Commissioners, a final development plan (the "Final Development Plan") for the V.A.W. Retention Area (The Property). The Final Development Plan consists of a 1-page map identified as Exhibit A to the Resolution (the "Map") and this text identified as Exhibit B to the Resolution (the "Text"). The proposed Retention area consists of 26,600 SF.

The property is located wholly within that parcel of land zoned Planned Unit Development (PUD) pursuant to Ordinance 79-73. The area encompassed by the Final Development Plan is currently part of the area designated and utilized as Special Business. There is no record of a Final Development Plan being submitted for this Property. The current building was constructed prior to final development requirements as they exist today.

Prior to commencement of land clearing, site preparation, or construction of any improvements depicted on the Map, the developer shall submit to the Engineering Department satisfactory evidence that all required state and federal permits have been obtained, including, but not limited to: (a) United States Army Corps of Engineers Dredge and Fill Permit, St. Johns River Water Management District and Storage of Surface Water Permit and Florida Department of Environmental Protection Water and Sewer Connection Permits; (b) Obtain a land clearing permit pursuant to St. Johns County Ordinance No. 90-11; (c) Obtain approval of signed and sealed construction plans by the St. Johns County Engineering Department in compliance with Ordinance 86-4; and (d) Comply with all other applicable land use and development regulations of St. Johns County.

In accordance with the procedure established in Section 8-3, "Implementation of a PUD", the attached Final Development Plan prepared by Prosser, Hallock & Kristoff, Inc. and the following text regarding compliance with Section 8-4, are submitted for your consideration.

8-4-1 Density of Development

The project does not involve residential buildings or structures.

8-4-2 Open Space

The Retention Area shown on the FDP will be maintained by V.A.W. of America, Inc.

8-4-3 Waiver of Yard, Dwelling Unit, Frontage Criteria, and Use Restrictions

This project does not involve residential buildings or structures.

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8-4-4 Project Size

The St. Augustine Shores PUD consists of approximately 1979.10 Acres. The portion owned by V.A.W. of America, Inc. consists of 36.05 Acres.

8-4-5 Support Legal Documents for Open Space

V.A.W. of America, Inc. owns and maintains the property contained in this FDP.

- a. V.A.W. of America, Inc. will not dedicate this area as common property.
- b. V.A.W. of America, Inc. will limit the use of the property to the proposed Retention Area.
- c. V.A.W. of America, Inc. will be responsible for the management of the Retention Area.
- d. Not applicable to this FDP.
- e. Not applicable to this FDP.

8-4-6 Access

No streets or drives are proposed.

8-4-7 Privacy

Since this project does not involve residential structures, this item is not applicable.

8-4-8 Community Facilities

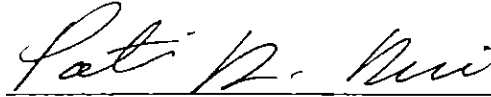
- a. None of the utility facilities serving the Property are proposed for dedication to St. Johns County; therefore, the provisions of subparagraph "a" are inapplicable.
- b. No parking is required or proposed, therefore, Article 9 does not apply.
- c. Access and circulation need not be addressed, since the Property will be comprised of only a retention pond.
- d. Utilities will not be required due to the use of the Property as a retention area.

e. No streets are proposed.

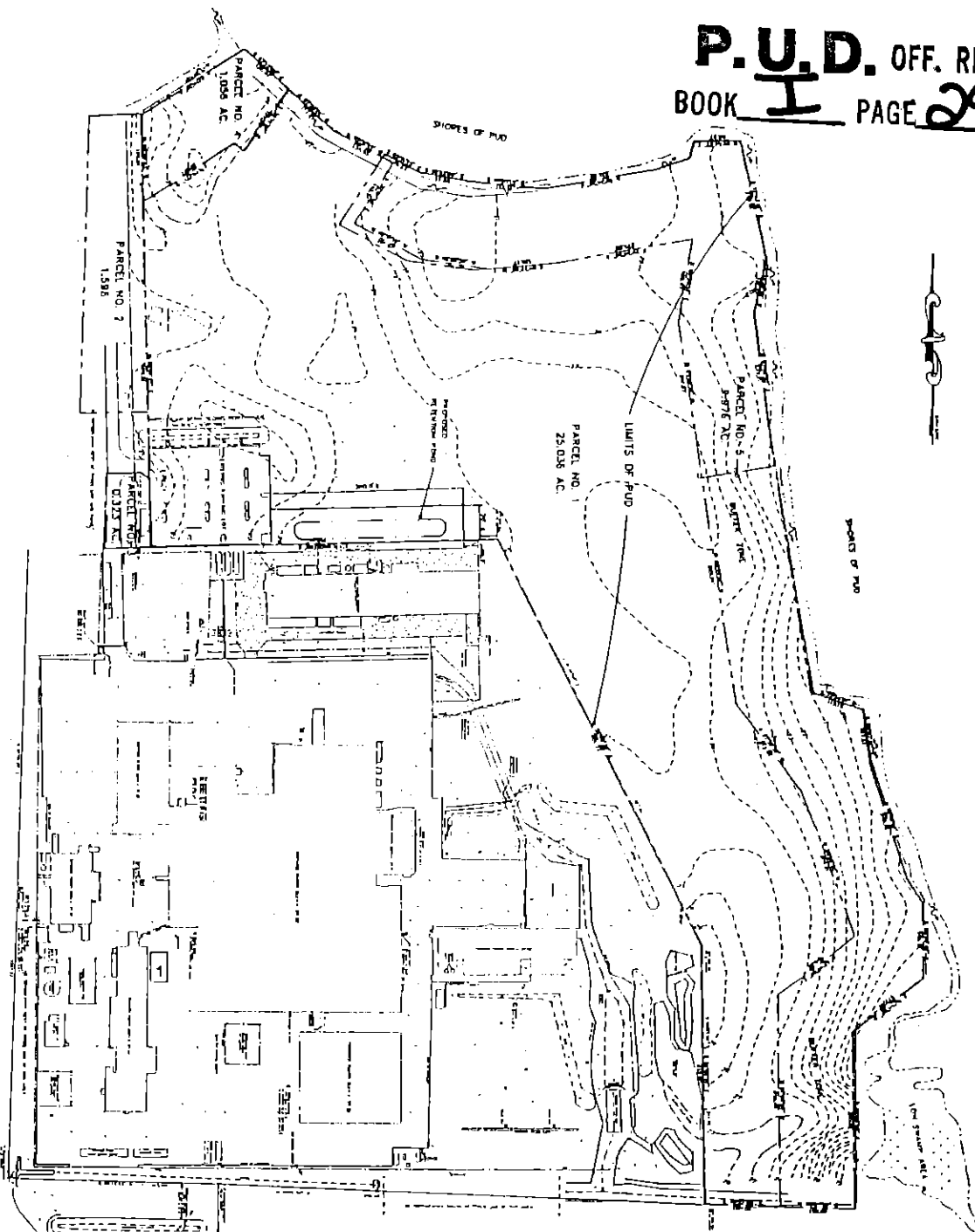
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Article 9 is not applicable due to the fact that no off-street parking will be required.

PROSSER, HALLOCK & KRISTOFF, INC.



Patricia D. Dill



- LEGEND**
- Proposed PUD
 - Proposed Building
 - Proposed Parking
 - Proposed Driveway
 - Proposed Easement
 - Proposed Fencing
 - Proposed Utility Lines
 - Proposed Retaining Wall
 - Proposed Storm Drain
 - Proposed Fire Lane
 - Proposed Planting Area
 - Proposed Survey
 - Proposed Boundary
 - Proposed Access Point
 - Proposed Gate
 - Proposed Signage
 - Proposed Lighting
 - Proposed Security
 - Proposed Maintenance
 - Proposed Amenities
 - Proposed Services
 - Proposed Facilities
 - Proposed Infrastructure
 - Proposed Landscaping
 - Proposed Site Work
 - Proposed Construction
 - Proposed Operation
 - Proposed Maintenance
 - Proposed Demolition

NOTES:
 1. TOPOGRAPHIC INFORMATION WITHIN THE PERIMETER OF THE PUD AREAS ARE BASED ON A SURVEY BY DONALD SMITH & ASSOCIATES, INC., DATED MAY 1, 1997

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V.A.W. OF AMERICA, INC.
 ST. JOHNS COUNTY, FLORIDA
 EXHIBIT "A" (TO THE RESOLUTION)

DESIGNED BY: J.S.R.
 DRAWN BY: J.F.S.
 CHECKED BY: G.E.R.
 SCALE: 1" = 100'
 DATE: 06/11/97
 PROJECT NO.

PROSSER, HALLOCK & KRISTOFF, INC.

STATE OF FLORIDA

COUNTY OF ST. JOHNS

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I, CARL "BUD" MARKEL, CLERK OF THE CIRCUIT COURT, Ex-officio, Clerk of the Board of County Commissioners of St. Johns County, Florida,

DO HEREBY CERTIFY that the foregoing is a true and correct copy of the following:

RESOLUTION NO. 95-194

Adopted by the Board of County Commissioners of St. Johns County, Florida, at a regular meeting of said Board held November 14, 1995

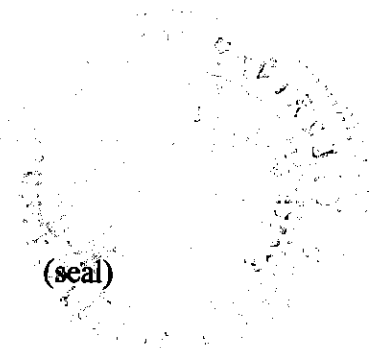
FILED AND RECORDED IN PUBLIC RECORDS OF ST. JOHNS COUNTY, FLA
95 NOV 20 PM 2:32
Carl "Bud" Markel
CLERK OF CIRCUIT COURT

as the same appears of record in the office of the Clerk of the Circuit Court of St. Johns County, Florida, of the public records of St. Johns County, Florida.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 20th day of November, 1995.

CARL "BUD" MARKEL,
CLERK OF THE CIRCUIT COURT
Ex-officio Clerk of the Board of County Commissioners of St. Johns County, Florida

By: Rosemary Lewis
Rosemary Lewis, Deputy Clerk



(seal)