

RESOLUTION NO. 96- 207

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA AUTHORIZING A RESTRICTION TO BE PLACED ON PROPERTY TO BE SOLD IN PART AND DONATED IN PART TO ST. JOHNS COUNTY FOR PARKING AND ROAD REALIGNMENT IN THE VICINITY OF MICKLER ROAD AND ST. JOHNS COUNTY ROAD 203.

WHEREAS, Paula S. McGarvey and St. Johns County have previously agreed to the transfer, by sale and donation, of certain real property to St. Johns County for a beach parking area and road realignment in the vicinity of the intersection of St. Johns County Road 203 and Mickler Road in St. Johns County, Florida; and

WHEREAS, it is now agreed between the parties that a restriction on lighting on said property will serve the public interest.

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

SECTION 1. The County Administrator is authorized to execute and record in the public records of St. Johns County, the Agreement Restricting Property, substantially in the form attached hereto and incorporated herein by reference as Exhibit A.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, State of Florida, this 12th day of November, 1996.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Donald Jordan
Chairman / Donald Jordan

ATTEST: CARL "BUD" MARKEL, CLERK

By: Yvonne Carter
Deputy Clerk

AGREEMENT RESTRICTING PROPERTY

The undersigned is the owner of the property described in Exhibit A attached hereto (the "Parking Lot Property"). Simultaneous with the execution hereof, Paula S. McGarvey ("McGarvey") has taken action to convey to the undersigned a portion of the Parking Lot Property to St. Johns County, Florida. That conveyance is now held in escrow pursuant to an agreement of the parties. McGarvey retains ownership of the property immediately south and west of the Parking Lot Property described in Exhibit B attached hereto (the "McGarvey Property"). Accordingly, McGarvey has an interest in how the Parking Lot Property is developed and lighted. It is also recognized that other owners and residents of adjoining property also have an interest in such matters. The undersigned intends to construct a parking lot on the Parking Lot Property, and that plan is acceptable to McGarvey provided that if parking lot lighting is installed, then the parking lot lighting is restricted as hereinafter set forth. Without this restriction, McGarvey would be unwilling to convey her portion of the Parking Lot Property to the undersigned. Contrary to this, it is the County's position that McGarvey would otherwise have a contractual obligation to make such conveyance in that McGarvey and the County have caused documents to be placed in escrow to effectuate said conveyance and that escrow agreement does not require this restriction. Aside from this difference, the County finds that this restriction is in the public interest.

Accordingly, the undersigned hereby restricts the Parking Lot Property for a period hereinafter set forth to prohibit the construction of any exterior lights on the Parking Lot Property except low level lights no taller than ten (10) feet which direct substantially all illumination and light downwards. Such lighting must also be directed inwards towards the Parking Lot Property and not towards the adjoining properties. The purpose of this restriction is to minimize light infiltration or illumination into adjoining properties. Selection and construction of such lighting shall be accomplished using all reasonable and practical methods and technologies available to achieve these purposes.

This restriction is intended to survive for a period of fifty (50) years from the date hereof and is binding upon the undersigned's successors. This restriction may be amended only with the consent and joinder of all the owners of the adjoining properties except that this restriction may be amended during said period by the Board of County Commissioners of St. Johns County but (i) only to the extent necessary to meet the security or safety needs requested in writing by the St. Johns County Sheriff and (ii) only after the association of homeowners owning property within the adjoining properties have been given written notice of the proposed amendment and an opportunity to provide suggestions, proposed construction plans, and counsel as to the amendment and the construction and placement of such lighting.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY

Norma G. Pirkie
Print Name: NORMA G. PIRKIE

Nicholas M. Miszer
Its County Administrator

Mary Ann Blount
Print Name: Mary Ann Blount

The foregoing instrument was acknowledged before me this 14 day of November
1996 by Nicholas M. Meiszer, who is personally known to me or has produced
_____ for identification.



MARY ANN BLOUNT
Notary Public, State of Florida
My comm. expires Dec. 21, 1998
Comm. No. CC 428448

Mary Ann Blount
Print Name: Mary Ann Blount
Notary Public, State of Florida
Commission No.: _____
My commission expires: _____
(Notary Seal)