

ST. JOHNS COUNTY, FLORIDA
ORDER
REZONING/EXCEPTION/VARIANCE

NAME OF APPLICANT

APPLICATION NUMBER

T.A.W. Nursery, Inc.
c/o Richard Gabriel
Quillen, Mills & Brody
3175 U.S. 1 South
St. Augustine, FL 32086

R-PUD-90-038

DECISION OF
COUNTY COMMISSION



GRANTED



GRANTED WITH
CONDITIONS



DENIED

Ordinance No. 91-18


The request is to rezone 20.4 acres from OR to PUD for a residential development.

Section 9. The applicant shall construct deceleration storage lane and a deceleration taper lane adjacent to CR 210, southbound and a northbound left turn lane to a design as approved by the County Engineering Staff.

*See Attached

DATE OF COMMISSION ACTION:

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: 
Chairman

ATTEST: CARL "BUD" MARKEL, CLERK

BY: 
DEPUTY CLERK

(Pursuant to St. Johns County Zoning Code, Section 11-9-5b: failure to exercise an exception or variance by commencement of the use or action approved thereby within one year, or such longer time as approved by the Board, shall render the exception or variance invalid and all rights granted thereunder shall terminate)

ads. Wheeler said that only a part of the office space in the auditorium would be exempt. Wheeler said that the project's gross density would be 1.25 per acre; subtract the auditorium and commercial, gross residential would be 1.2 per acre; looking at just residential, would be 2.8 per acre; commercial floor area ratio is .20 square feet. (3.2718) Bailey asked about the lease arrangements; Wheeler said that he didn't have that information; said that Towers of Love, Inc. would own each house; there would be no homestead exemption. Fleming said that the Towers would own the ground and lease it to the homeowners for a 99 year lease; therefore, the owners would be entitled to homestead exemption; none of the land is to be sold. (3.2830) Holmes said it met with engineering approval at this stage. (3.2845) Don Bement, Planning Department, recommended approval. Subsequently, Maguire said that the PZA denied this because it would be 5 years before development commenced; that construction would begin as soon as fee title were vested in the applicant; asked if the title were in Vergie Wolfe's name. Demming said that the title was still in the name of the Vergie Wolfe trust; the agreement is that by December, 1995, there will have been funding raised to match the equivalent of the value of the land; 4 years was not a long time for a project of this size. Maguire expressed concern that the funding would never show up; in 5 years, this project might be sold or abandoned; asked if this PUD could be non-transferable. Hurst said that she would need time to research that question. Discussion followed. Herold said that the Board would still have the option to turn down any future changes. Campbell stated that a minor modification would only go before the PZA; a major modification would come before PZA and the Board. (3.3218) Fleming said that the project could not be sold to a commercial venture because that would violate the terms of the foundation and all gifts made to it would be null and void; reiterated that the Towers project would apply for the exemptions they would be entitled to as a non profit organization for the office space in the auditorium and homestead where applicable. Subsequently, motion by Roberts, seconded by Floyd, carried 6/0 with Balsavage absent, to approve the application for PUD with the additional language from St. Johns Harbor and the clause for owners to take over the roads if necessary and the clause for concurrency requirements as read into the record by the Interim County Administrator, Ordinance No. 91-17.

ORDINANCE NO. 91-17

AN ORDINANCE OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA, REZONING LANDS AS DESCRIBED HEREINAFTER FROM PRESENT ZONING CLASSIFICATION OF OR TO PLANNED UNIT DEVELOPMENT.

(04/23/91 - 10 - 3.3420)

Court Reporter Brenda Rutgers was present.

Continuation of hearing on R-PUD-90-038 T.A.W. Nursery Inc., 20.4 acres, rezoning from OR to PUD for a residential development of 23 single family lots; located on west of CR-210 and north of Canal Boulevard. George McClure, 81 King Street, representing TAW Nursery, Inc., requested approval of the application for rezoning; reviewed the application; described off site mitigations; offered as a condition that, if required by County Staff, a left turn lane would be installed at developer's expense at the time of final development review; said that the access was safe based on County, FDOT and the Institute of Traffic Engineers standards; the issue of a left turn lane would be worked out on a professional level with Staff. (4.0232) Brinkhoff asked if this ordinance had been reviewed by Staff. Hurst replied that to her knowledge, it had not. Bement explained that Staff reviews all ordinances for consistency. McClure said that it was customary that once the PZA had recommended approval, the applicant would draft the ordinance based on the format that Staff provided. (4.0299) Mary Kohnke, 29 South Roscoe, commented in opposition to the proposed ordinance. (4.0529) Kathleen Hughes, 4925 Palm Valley Road, commented in opposition to the proposed ordinance. (4.0628) Bill Brooks, 255 Canal Boulevard, commented in favor of the proposed ordinance. (4.0689) Hurst said that she had not had an opportunity to review all the attachments listed but that the form was consistent; Hurst amended Section 9 as follows: *The applicant shall construct a deceleration storage lane and a deceleration taper lane adjacent to County Road 210 and northbound left turn lane to a design as approved by the County Engineering Staff.* McClure agreed to the change; explained that the materials in the attachment are the application and the narrative which are typically not attached to the ordinance but reference is made to them. McClure submitted photographs of the area of the proposed entrance on CR 210 to the development; described the pictures of the road's curves; submitted a letter from Fire Chief S.B. Sciotto of the Palm Valley Fire Department who stated that he had no objection as long as deceleration and acceleration lanes were provided. McClure quoted from *The Beaches Leader* of June 13, 1990, which stated that the entrance to the proposed

development would be from CR 210; quoted the County's Paving and Drainage Ordinance to the effect that the developers were doing more than was required in providing an acceleration lane, a deceleration lane and a left turn lane. Motion by Brinkhoff, seconded by Floyd, carried 4/2 with Balsavage absent, Roberts and Bailey dissenting, to approve the ordinance as amended, Ordinance 91-18.

ORDINANCE NO. 91-18

AN ORDINANCE OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA, REZONING LANDS AS DESCRIBED HEREINAFTER FROM PRESENT ZONING CLASSIFICATION OF OR TO PLANNED UNIT DEVELOPMENT.

(04/23/91 - 11 - 4.1000)

Continuation, Final Plat for Oakbrook; south and adjacent to Wellington Oaks Unit Two. Hamilton Upchurch, representing Robert Held, explained that he had first appeared on April 9, 1991; there had been only 4 Board members present; had requested a continuance until today; requested plat approval of a subdivision of 318 lots. He then gave a history of the request; used a large map and chart of the area; said that in 1984, Held had acquired 161 acres which were rezoned into 1/2 acre lots; said that Held had advanced to the County \$37,500, half the cost of paving the road leading to the 161 acres. Upchurch distributed copies of the Board of County Commissioners minutes from March 27, 1984 along with a copy of the agreement between the Board and Held for the paving of said road. He continued by saying that he put the money in escrow with the Atlantic Bank as escrow agent; in February, 1985, the money was paid to the County and the road was subsequently paved by the County to County specifications; all along the new road, development occurred. As of today, the plat has been reviewed by the Engineering Department; an approximately \$900,000 letter of credit has been posted and approved in accord with County requirements; requested that the Board waive the requirements of Ordinance 86-4 which is the ordinance which can require a developer to make off-site improvements in the nature of roads and drainage. He summed up by saying that he was requesting that the Board waive the requirements of Ordinance 86-4 because of the improvements already paid for in 1985. (4.1368) David Bruner, St. Johns Survey Company, requested final plat approval and waiver of the provision of Ordinance 86-4 which deals with off site improvements. Bruner quoted from the ordinance; said that the ordinance required these improvements at the driveway connection to the County road. Bruner used a chart to illustrate the standard driveway design (a T-intersection); said that this project did not meet the standard design as the county road ran into the subdivision; the applicant had provided widened pavement at the point at which vehicles could either turn around or enter the subdivision and felt that should address that concern. Bruner said that the County could apply transportation impact fees to transportation improvements in the immediate area; Bruner further said that in meeting with Staff, a consensus was reached that traffic control had been provided at the driveway connection and no deceleration or left turn lane was desired at the Kings Road and Kings Estate Road intersection; the County Engineering Department requested that an equivalent amount of money should be given to the County for future traffic impacts and were unaware of the \$37,500 already given. (4.1530) Holmes said that the pavement island at the entrance didn't serve the same purpose as the traffic safety improvements mandated by ordinance; secondly, impact fees are not intended to be applied to project specific requirements but are intended to meet regional improvements; never said that those improvements were not needed; sent an engineer and a traffic safety technician to meet with Bruner on site in December and was awaiting a plan submittal for an alternative design to address these requirements. (4.1570) Hurst said that Section 16 of the ordinance allows waiver of the cost of the charges for a governmental entity or for a PUD or a PSD; that was the full extent of the waiver provisions; said that the waiver in this case was not authorized by the ordinance. Discussion followed. (4.1870) Campbell said that the issue was that the additional 300 lots would cause a traffic safety issue near the major intersections on the main roads leading to the subdivision. Bruner said that at the time of rezoning in 1984, the \$37,500 was paid; felt that covered these traffic issues. (4.1984) Holmes recommended approval with the condition that the developer install traffic improvements as required by ordinance. Upchurch stated that he felt it would be in effect paying twice and that it wasn't fair. (4.2120) Discussion followed. (4.2243) Sisco said that the ordinance didn't allow the Board to waive this provision; the only way to accomplish this would be for the Board to find that the improvements were equivalent to the improvements required by the ordinance; said that he wasn't recommending that, only that the County kept its part of the bargain in that it paid half for paving of the road. Sisco further stated that the resolution sets the amount of the construction bond and approves the plat; the resolution being considered does not speak to the paving and drainage