

Draft B

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

RE: PAAL Ventures, Inc.  
c/o Shaffer & Sons Enterprises, Inc.  
8081 Phillips Hwy., Suite 14  
Jacksonville, Florida 32256

FILE: Minor Modification to Court Homes of Ponte Vedra Unit II,  
Lot 28, Fairfield Planned Unit Development

ORDER ON APPEAL DENYING MINOR MODIFICATION

The above-referenced applicant appeared before the Planning and Zoning Agency (Agency) on March 4, 1993 requesting a minor modification pursuant to Section 8-2-4(A) of the Zoning Ordinance. The hearing was continued to March 18, 1993. The purpose of the requested minor modification was to allow reduction of the required distance between the homes on Lots 27 and 28 from 10 feet to 9 feet at the northeast corner of the house on Lot 28. At the March 18, 1993 Agency meeting, a motion to grant the minor modification failed because of a tie vote. See section 11-7-3 of the Zoning Ordinance.

The applicant filed an appeal of the Agency's action in a timely manner on March 30, 1993. On May 11, 1993, the matter came before the St. Johns County Board of County Commissioners (Board) for hearing on the appeal.

FINDINGS OF FACT  
AND ORDER

Having considered the application for appeal and supporting documents; Agency minutes from March 4, 1993 and March 18, 1993; the Agency resolution no. 93-006; the staff report (undated) prepared for the Agency prior to the March 4, 1993 meeting and its supporting documents; statements from the applicant's attorney; and statements from an attorney for nearby residents opposing the minor modification, the Board makes the following findings of fact:

1. The appeal of the Agency's action was properly filed in a timely manner;

2. The Agency's action denying the request for a minor modification to the planned unit development (PUD) has been fully considered after a public hearing pursuant to legal notice as required by the law and the Zoning Ordinance;

3. The request for a minor modification to the PUD meets the criteria to be considered as a minor adjustment as set forth in section 8-2-4(A) of the Zoning Ordinance as follows:

- A. There are the same or fewer number of dwelling units and/or floor area;
- B. Open space within the PUD is not affected;
- C. The number of stories in the building and the floor area are not changed; and
- D. The roads and drives within the PUD are not affected.

4. Section 8-1 of the Zoning Ordinance expresses the objectives of the Board in approving PUDs, including requirements for setbacks and minimum lot size.

5. In resolution no. 85-93, approving a final development plan for Court Homes of Ponte Vedra, Unit II, exhibit B to the resolution stated that each house would be located 10 feet or greater from other houses.

6. The house constructed on Lot 28 was constructed so that approximately 7 1/2 square feet of the northeast corner of the house is 9 feet from the house on Lot 27 instead of 10 feet.

7. The Court Homes of Ponte Vedra, Unit II, is a zero lot line development as shown in Exhibit A to the final development plan approved by resolution no. 85-93. The plan provides for a distance of at least 10 feet from **wall to wall** of the houses. The eaves of the houses may be; and, in this case are, closer. Based on statements to the Agency and Board, the eaves of the house on Lot 27 are in some places only 3 1/2 feet from the eaves of the house on Lot 28. In zero lot line developments, builders have an increased responsibility to insure that the houses are constructed according to the approved final development plan.

8. Approval of the requested minor modification would adversely affect the spirit and intent of Article 8 of the Zoning Ordinance governing PUDs by condoning construction inconsistent

with the approved final development plan. In addition, approval would adversely affect the characteristics of the neighborhood created by the final development plan on which other residents have relied, and may adversely affect the value of the house on Lot 27.

9. Although the Staff Report recommends approval of the minor modification, the staff did not have the benefit of the extensive testimony from March 4, 1993 and March 18, 1993 before the Agency and May 11, 1993 before the Board. Therefore, the findings and recommendations of the staff in this matter are based on incomplete information; are not persuasive to the Board; and are hereby rejected.

**ACCORDINGLY**, the decision of the Agency denying the request for a minor modification is hereby affirmed, and the request is **denied**. The applicant is instructed to remove the encroaching structure within August 13, 1993 from this date.

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.

Date of Commission action: May 11, 1993.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By: *Quinn Balzavage*  
Its Chair

ATTEST: CARL "BUD" MARKEL, CLERK

By: *Wonne Carter*  
Deputy Clerk

Copies to: John S. Duss, Esq. (for applicant)  
Parker Smith, Esq.  
Planning and Zoning Agency

