

DISTRICT COURT OF APPEAL OF FLORIDA, FIRST DISTRICT

Don and Pamela Ashley v. State of Florida, Administration
Commission, State of Florida Department of Community Affairs,
Franklin County, and The St. Joe Company

976 So. 2d 1130 (Fla. Dist. Ct. App. 2007) · No. No. 1D07-0095 · Decided December 31, 2007

SUMMARY

The Florida First District Court of Appeal reviewed a final order declaring amendments to Franklin County's comprehensive plan not in compliance. The court held that the Rural Village and Conservation Residential land-use categories were mixed-use categories subject to additional planning requirements under Florida Administrative Code Rule 9J-5.006(4)(c). It affirmed in part, reversed in part, and remanded for further proceedings.

CASE DETAILS

COURT	District Court of Appeal of Florida, First District
WRITING FOR THE COURT	Per Curiam; WOLF; PADOVANO; POLSTON
JURISDICTION	Florida
DECIDED	December 31, 2007
DOCKET	No. 1D07-0095
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appellants sought review of a final order of the Florida Administration Commission determining that amendments to Franklin County's comprehensive plan were not in compliance and ordering remedial action.
STANDARD OF REVIEW	The court reviewed the Administration Commission's final agency order concerning compliance of comprehensive-plan amendments with statutory and administrative-code planning standards.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Don Ashley, Pamela Ashley v. State of Florida, Administration Commission, State of Florida Department of Community Affairs, Franklin County, The St. Joe Company

TOPICS

judicial review of agency action

administrative law

environmental law

real estate

appellate procedure

PRACTICE AREAS

administrative law

land use

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real estate

QUESTIONS PRESENTED

1. Whether the Rural Village and Conservation Residential land-use categories were mixed-use categories subject to the additional planning requirements in Florida Administrative Code Rule 9J-5.006(4)(c).
2. Whether the Administration Commission's final order should otherwise be affirmed on the remaining challenges to the comprehensive-plan amendments.

HOLDINGS

1. The Rural Village and Conservation Residential categories are mixed-use categories because each contemplates and permits a variety of land uses. They are therefore subject to the mandatory planning requirements for mixed-use categories in Florida Administrative Code Rule 9J-5.006(4)(c), including percentage-distribution standards and limits on the intensity and density of each permitted use.
2. The Administration Commission's final order was affirmed on all issues other than the classification of the Rural Village and Conservation Residential categories as non-mixed-use categories.

KEY QUOTATIONS

"We hold the ALJ erred in reaching this conclusion." (976 So. 2d at 1133)

"Accordingly, both categories are subject to the additional mandatory planning requirements in Rule 9J-5.006(4)(c), including percentage distribution standards, and limits on the intensity and density of development in each permitted use." (976 So. 2d at 1134)

FACTUAL BACKGROUND

Franklin County adopted amendments creating four new land-use categories on St. James Island: Rural Village, Conservation Residential, Marina Village Center, and Carrabelle East Village. The Rural Village category allowed residential, commercial, lodging, restaurant, recreational, and related uses. The Conservation Residential category allowed residential, agricultural, silvicultural, recreational, infrastructure, vacation-rental, and community-facility uses. The Administration Commission concluded that the Rural Village and Conservation Residential categories were not mixed-use categories and therefore were not subject to the additional planning requirements applicable to mixed-use categories.

PROCEDURAL HISTORY

Franklin County adopted Ordinance No. 2005-20, amending its 2020 Comprehensive Plan and Future Land Use Map. The Department of Community Affairs initially issued a notice finding the amendments in compliance, but after appellants petitioned for an administrative hearing, the DOAH administrative law judge recommended a finding of noncompliance. The Department and then the Administration Commission adopted findings that the

amendments were not in compliance. The appellants appealed the Commission's final order to the First District Court of Appeal.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the Administration Commission for further proceedings to determine whether the Rural Village and Conservation Residential categories comply with the standards for mixed-use land categories under Florida Administrative Code Rule 9J-5.006(4)(c). The final order was affirmed in all other respects.

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