

10-21-04

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TALL CITY ATTORNEY

Time: 8:18 AM
Duration: 1 min 37 sec
Company:
Subject: 8508918973 P.02

TALLAHASSEE-LEON COUNTY PLANNING COMMISSION

MAYE WALKER,

Petitioner,

AP

vs.

DOAH Case No. 04-1840

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CWS

CITY OF TALLAHASSEE and
SCHOOL OF ARTS AND SCIENCES
FOUNDATION, INC,

Respondents.

RECEIVED

FEB 16 2005

City of Tallahassee
City Attorneys Office

FINAL ORDER

This matter came before the Planning Commission on the attached RECOMMENDED ORDER entered by J. Lawrence Johnston, Administrative Law Judge, Division of Administrative Hearings, acting as the Hearing Officer for the Planning Commission in this matter. The record of the proceeding before the Administrative Law Judge has been filed with the Clerk. The Planning Commission has considered PETITIONER'S OBJECTIONS TO RECOMMENDED ORDER, RESPONDENT, SCHOOL OF ARTS AND SCIENCES FOUNDATION, INC.'S EXCEPTIONS TO RECOMMENDED ORDER, and the OBJECTIONS TO RECOMMENDED ORDER BY RESPONDENT, CITY OF TALLAHASSEE. The Planning Commission has also considered RESPONDENT, CITY OF TALLAHASSEE'S RESPONSE TO PETITIONER'S OBJECTIONS, and RESPONDENT, SCHOOL OF ARTS AND SCIENCES FOUNDATION, INC.'S RESPONSES TO PETITIONER'S EXCEPTIONS.

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FINDINGS OF FACT

1. The Findings of Fact in the RECOMMENDED ORDER are hereby accepted, adopted and incorporated herein by reference. In addition, the Planning Commission has determined that the following statement set forth in Paragraph 44 of the CONCLUSIONS OF LAW in the RECOMMENDED ORDER is a Finding of Fact instead of a Conclusion of Law and shall be treated accordingly:

In this case, the preexisting use was for a school with a student enrollment of approximately 225 students (the approximate student enrollment at the start of the 2002-2003 school year).

CONCLUSIONS OF LAW

2. The Conclusions of Law in the RECOMMENDED ORDER are hereby accepted, adopted and incorporated herein by reference except for Paragraph 44 of the Conclusions of Law. Paragraph 44 of the Conclusions of Law in the RECOMMENDED ORDER is rejected, and in its place as Paragraph 44 in the Final Order, the Planning Commission concludes as a matter of law that

For the subject preexisting school on these unique circumstances the issue is whether the site plan under review would expand or intensify the preexisting use so as to make the school less compatible than before. For the purpose of this proceeding, the Planning Commission concludes as a matter of law that the phrase in the Findings of Fact which states "approximately 225 students" means, as a matter of law that the number of students is not to exceed 230.

3. The PETITIONER'S OBJECTION TO RECOMMENDED ORDER after thorough consideration are hereby rejected.

4. The OBJECTIONS TO RECOMMENDED ORDER BY RESPONDENT, CITY OF TALLAHASSEE are hereby granted and addressed by the language adopted in the Final Order for Conclusion of Law No. 44.

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5. The RESPONDENT, SCHOOL OF ARTS AND SCIENCE FOUNDATION, INC.'S EXCEPTION TO RECOMMENDED ORDER with regard to Paragraph 44 of the Conclusions of Law in the RECOMMENDED ORDER is granted as set forth above. The remaining exceptions of the School of Arts and Sciences are granted in part as set forth above and otherwise denied.

6. The Florida Land Use and Environmental Dispute Resolution Act provides an opportunity for an owner of property who believes that a development order is unreasonable or unfairly burdens the use of his real property to apply for a special master proceeding. An owner who believes that a development order, either separately or in conjunction with other development orders, or an enforcement action of a governmental entity, is unreasonable or unfairly burdens the use of his real property, may apply within 30 days after receipt of the order or notice of the governmental action for relief under this Act. Owners of real property contiguous to the site will be provided a copy of any such request filed with the Planning Department. Any substantially affected party who submits oral or written testimony of a substantive nature which states with particularity objections to or support for any development order at issue may also receive a copy of any request for relief filed under the Florida Land Use and Environmental Dispute Resolution Act by filing a written request for such copy with Roxanne Manning, Planning Commission Clerk, Tallahassee-Leon County Planning Department, City Hall, 300 South Adams Street, Tallahassee, Florida, 32301.

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law, it is ordered that the Planning Commission approves SAS's site plan application, with the conditions recommended by the DRC, together with the following additional conditions: it is required that the Leon County spring official census be reported by the SAS annually and that the census shall not

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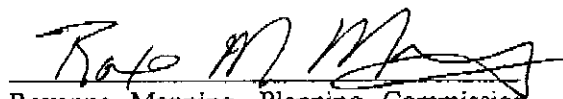
exceed 230 students; and to limit the height of the proposed addition to the roofline of the existing building as depicted on SAS Exhibit j.

APPROVED by the Commission on this 9th day of February, 2005.


Maribel Nicholson-Choice, Chairperson
Tallahassee-Leon County Planning
Commission
City Hall
300 South Adams Street
Tallahassee, Florida 32301-1731

CERTIFICATE OF FILING AND CERTIFICATE OF SERVICE

I hereby certify that this Final Order was filed in the Office of the Clerk of the Planning Commission and that a copy was sent this 14 day of February, 2005; and a copy has been furnished by U. S. Mail to Linda Hurst, Assistant City Attorney, City Attorney's Office, City Hall, 300 S. Adams Street, Tallahassee, Florida 32301; Cari L. Roth, 201 S. Monroe St., Suite 500, Tallahassee, Florida 32301; Wellington H. Meffert, II, Esquire, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301; and Maye R. Walker, 1305 Covington Drive, Tallahassee, Florida, 32312-2504, on this 14 day of February, 2005.


Roxanne Manning, Planning Commission
Clerk Tallahassee - Leon County Planning
Commission
City Hall
300 S. Adams Street
Tallahassee, Florida 32301-1731

TLPC\Walker2\Final Order