

STATE OF FLORIDA
ADMINISTRATION COMMISSION

DON and PAMELA ASHLEY, SIERRA
CLUB, INC., and PANHANDLE
CITIZENS COALITION, INC.

Petitioners,

vs.

DEPARTMENT OF COMMUNITY AFFAIRS
and FRANKLIN COUNTY,

Respondents,

and

ST. JOE COMPANY and EASTPOINT
WATER AND SEWER DISTRICT,

Intervenors.

_____ /

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FILED
DIVISION OF
ADMINISTRATIVE
HEARINGS

AC Case No. ACC-06-022
DOAH Case Nos. 05-2361GM
05-2730GM
DCA Docket No. 05-1ER-NOI-1901-(A)-(I)

FINAL ORDER OF DISMISSAL

This cause came for consideration before the Secretary of the Administration Commission (“Commission”) through the Suggestion of Mootness, attached and incorporated as Exhibit A, filed by Respondent, Franklin County, on June 24, 2009. Franklin County suggests that the adoption of County Ordinances 09-07 and 09-08 on May 5, 2009, rescinding the Rural Village and Conservation Residential land use categories, along with the attendance Future Land Use Map (FLUM) amendments for each category, renders further action in the subject proceeding moot. The Ordinances adopted on May 5, 2009, address the two remaining outstanding issues of dispute in the subject proceeding. On August 19, 2009, the Secretary of the Commission issued an Order to Show Cause why this

proceeding should not be dismissed as moot as suggested by Franklin County. In response to the Commission's Order to Show Cause, Respondent, Department of Community Affairs, concurred with Franklin County that this matter is moot and should be dismissed. Petitioners, Don and Pamela Ashley, through their counsel, also agree with the positions of Franklin County and the Department of Community Affairs.

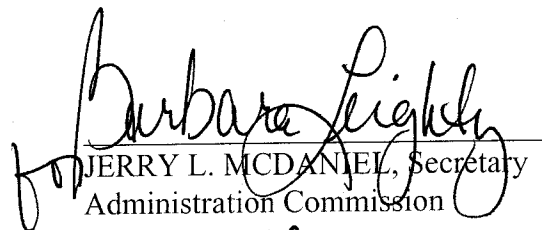
The Secretary of the Commission agrees that the instant appeal was rendered MOOT by the adoption of Franklin County Ordinances 09-07 and 09-08.

WHEREFORE, IT IS ORDERED that the instant cause is DISMISSED.

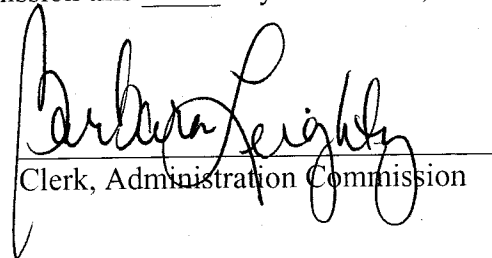
NOTICE OF RIGHTS

Any party to this Order has the right to seek Judicial review of the Final Order pursuant to section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Commission, Office of Policy and Budget, Executive Office of the Governor, The Capitol, Room 1801, Tallahassee, Florida 32399-0001; and by filing a copy of the Notice of Appeal, accompanied by the applicable filing fees, with the appropriate District Court of Appeal. Notice of Appeal must be filed within 30 days of the day this Order is filed with the Clerk of the Commission.

DONE AND ORDERED this 5th day of October, 2009, in Tallahassee, Florida.

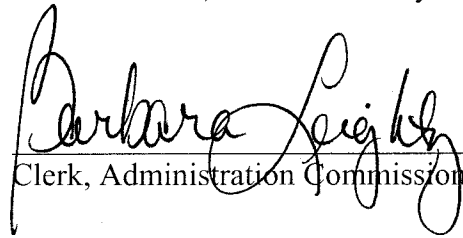

JERRY L. MCDANIEL, Secretary
Administration Commission

FILED with the Clerk of the Administration Commission this 5th day of October, 2009.


Clerk, Administration Commission

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the forgoing was delivered to ^{the} following persons by United States Mail, facsimile, electronic mail, or hand delivery this 5 day of October, 2009.


Clerk, Administration Commission

Honorable Charlie Crist
Governor
The Capitol
Tallahassee, Florida 32399

Honorable Alex Sink
Chief Financial Officer
The Capitol
Tallahassee, Florida 32399

Honorable Bill McCollum
Attorney General
The Capitol
Tallahassee, Florida 32399

Honorable Charles H. Bronson
Commissioner of Agriculture
The Capitol
Tallahassee, Florida 32399

Carly A. Hermanson, Esquire
Governor's Legal Office
Room 209, The Capitol
Tallahassee, Florida 32399-0001

Florida Administrative Law Reports
Post Office Box 385
Gainesville, Florida 32602

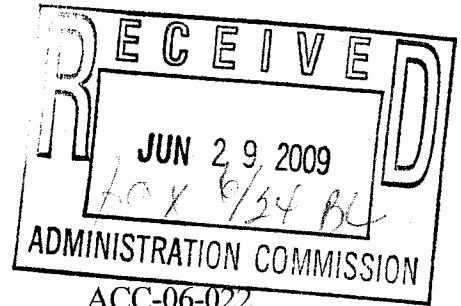
Secretary Thomas G. Pelham
Shaw P. Stiller, General Counsel
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Honorable J. Lawrence Johnston
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

Ross S. Burnaman, Esquire
1018 Holland Drive
Tallahassee, Florida 32301

STATE OF FLORIDA
ADMINISTRATION COMMISSION

DON and PAMELA ASHELY, SIERRA
CLUB, INC., and PANHANDLE
CITIZENS COALITION, INC.



Plaintiffs,
Vs.

AC Case No. ACC-06-022
DOAHCasesNos.: 05-2361-GM
05-2730GM
DCA Docket No" 05-1ER-NOI-
1901 -(A)-(I)

DEPARTMENT OF COMMUNITY AFFAIRS
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WATER AND SEWER DISTRICT,

Intervenors.

SUGGESTION OF MOOTNESS

Comes Now, Franklin County, a political subdivision of the State of Florida, and
says:

1. On December 31, 2007, in Ashley v. State of Florida, et al., 976 So.2d 1130 (Fla. 1st DCA 2007) reh. den. March 14, 2008, the Administration Commission's Final Order AC-06-008 was vacated in part because the Rural Village and Conservation Residential categories did not comply with standards for mixed-use land categories, as set forth in Rule 9J-5.006(4)(c). The balance of the Final Order was upheld.
2. On October 20, 2008, the Administration Commission entered an Order Vacating Final Order in Part and Remanding in Part. This Order remanded to the Division of Administrative Hearings for further action consistent with the appellate opinion.

3. Respondents and Intervenor conceded that the Rural Village and Conservation Residential categories do not meet all the mixed-use category requirements of Rule 9J-5.006(4)(c), Florida Administrative Code.
4. On December 4, 2008, the Division of Administrative Hearings rendered a Recommended Order After Second Remand, which in part found that it was proven beyond fair debate that both the Rural Village and the Conservation Residential Categories failed to provide a percentage distribution, or other objective measures, of the mix of land uses; and that Conservation Residential does not have FAR or other adequate intensity standard for its non-residential uses, as required by Rule 9J-5.006(4)(c), Florida Administrative Code.
5. The Ashelys filed objections to the Recommended Order After Second Remand.
6. To date, the Administration Commission has not held a hearing on either the Recommended Order After Second Remand or the Ashley's objections thereto.
7. On May 5, 2009, Franklin County, a political subdivision of the State of Florida, properly adopted two ordinances rescinding the Rural Village and Conservation Residential land use categories, along with the attendant FLUMs for each such category.

WHEREFORE, Franklin County suggests that the enactment of such ordinances moots the remaining issues before the Administration Commission and that no further proceedings before the Commission are appropriate.

Certificate of Service

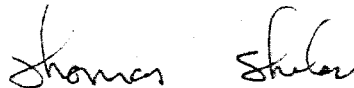
I certify that a true copy hereof was served upon the following on this the 24 day of June, 2009:

Shaw Stiller, Esquire Fla.
Dept. Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, Fl 32399

Bryan Duke, Esquire
St. Joe Company
3800 Esplande Way, Suite 100
Tallahassee, Florida 32311

Ross Burnaman, Esquire
1018 Holland Drive
Tallahassee, Fl 32301
Attorney for the Ashleys

Administration Commission
c/o Barbara Leighty, Clerk
Room 1801
The Capital
Tallahassee, Florida 32399-0001



Thomas M. Shuler, Esquire
P.O. Box 850
Apalachicola, Florida 32329
850-653-9226
FBN 0947891
Attorney for Franklin County