

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF COMMUNITY
AFFAIRS,

Petitioner,

vs.

Case No. 08-4951GM

MARION COUNTY,

Respondent,

and

DANA KOTYLAK; SOUTEAST CONSULTING
SERVICES, INC.; MARIO T. ZACCO;
KARON ZACCO; A/P, LLC; PAUL A.
LOUISE AND KAREN A. SKINNER,
TRUSTEES; H. RANDOLPH KLEIN AND
SUSAN P. KLEIN, TRUSTEE; BRADFORD
FARMS PHASE 3-5, LLC; BRADFORD 159
PZ, LLC; TW & P INVESTMENTS, LLC;
KIRK BOONE, TRUSTEE; and 484
PARTNERS, LLC.

Intervenors.

_____ /

FINAL ORDER

This cause is before the Department of Community Affairs (Department or DCA) on an Order Closing File, a copy of which is appended hereto as Exhibit A.

On July 23, 2008, Respondent Marion County (County) adopted multiple amendments to its comprehensive plan by Ordinance No. 2008-025 (Amendments). The Department reviewed the Amendments, determined that some did not meet the criteria for compliance set forth in Section 163.3184(1)(b), Florida Statutes, and caused to be published a Notice of Intent to find those Amendments not "in

compliance" and found the remaining amendments "in compliance" pursuant to Sections 163.3184, 163.3187, and 163.3189, Florida Statutes.

The Department then instituted this administrative proceeding against the County pursuant to Section 163.3184(10), Florida Statutes.

The Department entered into a partial settlement agreement with the County with respect to one of the Amendments, published an Amended Notice of Intent finding Amendment 08-L21 as adopted by Ordinance 08-25 "in compliance," and resolved this matter by Final Order No. DCA09-GM-256 issued on July 2, 2009.

On February 10, 2011, the County Adopted the Evaluation and Appraisal Report (EAR) based amendments to the Marion County Comprehensive Plan. The Adopted EAR was thereafter submitted to the Department for compliance review. The Department issued a Notice of Intent to find the EAR based amendments, adopted by Ordinance No. 11-01 and Ordinance Nos. 11-3 through 11-37 "in compliance," pursuant to Sections 163.3184, 163.3187 and 163.3189, Florida Statutes. No petition to challenge the Notice of Intent was timely filed.

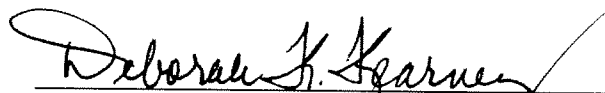
The Future Land Use Map adopted by Ordinance No. 11-37 approves land uses similar to, or exactly the same as, the land uses proposed by the remaining map Amendments previously adopted by Ordinance No. 08-25. As a result of the update to the comprehensive plan through the EAR process, the adoption of a new

planning horizon, and the creation of an urban growth boundary, these amendments were now determined to be in compliance.

Therefore, the remaining 2008 Amendments are superseded by the Future Land Use Map, and are rendered moot by the Department's Notice of Intent and this proceeding must be dismissed. See Department of Highway Safety & Motor Vehicles v. Heredia, 520 So. 2d 61 (Fla. 3d DCA 1988) (dismissing case on appeal as moot where suspension of driver's license was rescinded by the Department).

ORDERED that the remaining Amendments adopted by Ordinance No. 2008-025 have been rendered moot, and this case is hereby dismissed.

DONE AND ORDERED in Tallahassee, Florida.


Deborah K. Kearney, General Counsel
DEPARTMENT OF COMMUNITY AFFAIRS
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

NOTICE OF RIGHTS

EACH PARTY IS HEREBY ADVISED OF ITS RIGHT TO SEEK JUDICIAL REVIEW OF THIS FINAL ORDER PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND FLORIDA RULES OF APPELLATE PROCEDURE 9.030(b)(1)(C) AND 9.110.

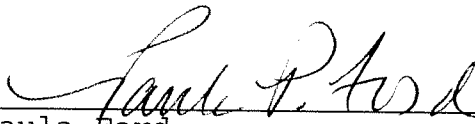
TO INITIATE AN APPEAL OF THIS ORDER, A NOTICE OF APPEAL MUST BE FILED WITH THE DEPARTMENT=S AGENCY CLERK, 2555 SHUMARD OAK BOULEVARD, TALLAHASSEE, FLORIDA 32399-2100, WITHIN 30 DAYS OF THE DAY THIS ORDER IS FILED WITH THE AGENCY CLERK. THE NOTICE OF APPEAL MUST BE SUBSTANTIALLY IN THE FORM PRESCRIBED BY FLORIDA RULE OF APPELLATE PROCEDURE 9.900(a). A COPY OF THE NOTICE OF APPEAL MUST BE FILED WITH THE APPROPRIATE DISTRICT COURT OF APPEAL AND MUST BE ACCOMPANIED BY THE FILING FEE SPECIFIED IN SECTION 35.22(3), FLORIDA STATUTES.

YOU **WAIVE** YOUR RIGHT TO JUDICIAL REVIEW IF THE NOTICE OF APPEAL IS NOT TIMELY FILED WITH THE AGENCY CLERK AND THE APPROPRIATE DISTRICT COURT OF APPEAL.

MEDIATION UNDER SECTION 120.573, FLA. STAT., IS NOT AVAILABLE WITH RESPECT TO THE ISSUES RESOLVED BY THIS ORDER.

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the persons listed below in the matter described, on this 16th day of June, 2011.



Paula Ford
Agency Clerk

Honorable J. Lawrence Johnston
Administrative Law Judge
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