

LEON COUNTY
BOARD OF COUNTY COMMISSIONERS

WYNONA C. BRASWELL AND
VICKIE GOODMAN,

Petitioners,

Leon County Project ID# LSP180013
DOAH CASE NO. 18-2734

vs.

PALAFX, LLC, AND LEON
COUNTY DEPARTMENT OF
DEVELOPMENT SUPPORT AND
ENVIRONMENTAL
MANAGEMENT,

Respondents.

FINAL ORDER

An Administrative Law Judge with the Division of Administrative Hearings (“DOAH”), serving as a special master for purposes of the quasi-judicial hearing prescribed by section 10-7.414, Leon County Land Development Code, submitted a Recommended Order (“RO”), on August 31, 2018, to the Leon County Board of County Commissioners (“Board”) in the above-captioned proceeding. This proceeding is an appeal of the preliminary conditional approval of a site and development plan for Market District Housing, Leon County Project ID No. LSP 180013, by Wynona C. Braswell and Vickie Goodman (collectively “Petitioners”). As described in the RO, the proposed project is a 36 unit townhome development to be located on Martin Hurst Road and Palafox Lane (“Project”). Additional details about the Project are set out in the RO. The RO finds that the Project is consistent with all requirements for approval, and recommends that the Board enter a Final Order approving the Project, consistent with the written preliminary decision of approval dated April 27, 2018.

The RO advised that all parties had the right to file written exceptions within 10 days from the date of the RO, pursuant to section 10-7.414(K), Leon County Land Development Code. No exceptions were timely filed by any party. On September 20, 2018, Petitioner Braswell filed Exceptions to the Recommended Order with DOAH. The Exceptions to the Recommended Order filed by Petitioner Braswell were filed beyond the deadline outlined in the RO and section 10-7-414(K), Leon County Land Development Code. Further, section 10-7.414(K), Leon County Land Development Code, requires exceptions to be filed with the Clerk of the Board of County Commissioners. The Exceptions to the Recommended Order filed by Petitioner Braswell were not filed with the Clerk of the Board but instead were filed with DOAH.

This matter is now before the Board for review of the RO, as provided in section 10-7.415, Leon County Land Development Code. Pursuant to the County's Land Development Code, a duly noticed public hearing before the Board was held on September 24, 2018. All parties who participated in the quasi-judicial hearing before DOAH, including Petitioners, Palafox, LLC, and the County, were given the opportunity to provide oral argument.

The hearing before the Board is limited to matters of record and argument based on the record. §10-7.415(E), Leon County Code. No new evidence may be presented. Id.

As set forth in the County's Code, the Board of County Commissioners "is bound by the special master's findings of fact unless the findings of fact are not supported by competent substantial evidence in the record before the special master." §10-7.415(H), Leon County Code. However, the Board "may modify the conclusions of law if it finds that the special master's application or interpretation of law is erroneous." Id. Ultimately, the Board must approve, approve with conditions, or deny the Project. Id. The label assigned a statement is not dispositive as to whether it is a finding of fact or conclusion of law. Kinney v. Dep't of State, 501 So. 2d 129 (Fla. 5th DCA 1987); Goin v. Comm. on Ethics, 658 So. 2d 1131 (Fla. 1st DCA 1995).

Conclusions of law labeled as findings of fact, and findings labeled as conclusions, will be considered as a conclusion or finding based upon the statement itself and not the label assigned.

ORDER

IT IS THEREFORE ORDERED as follows:

1. The Exceptions to the Recommended Order filed by Petitioner Braswell are stricken as being untimely and improperly filed.
2. The findings of fact and conclusions of law in the Recommended Order are ADOPTED. The Recommended Order is incorporated by reference and made a part hereof as Exhibit A.
3. The Administrative Law Judge's recommendation is ACCEPTED.
4. The Leon County Board of County Commissioners enters this Final Order, approving the Project with conditions consistent with the written preliminary decision dated April 27, 2018.

APPROVED by the Board and EXECUTED by the Chairman on the 24th day of September 2018.



NICK MADDOX
Chairman
Leon County Board of
County Commissioners

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that this Final Order has been filed with the undersigned Clerk of the Board of County Commissioners, and that true and correct copies have been furnished to the persons listed below in the manner described, on this 25th day of September, 2018.



Clerk

By Electronic Mail:

Jefferson Braswell, Esquire
1800 N. Main Street, Suite 1A
Gainesville, Florida 32608
braswell@braswelllawpllc.com
Attorney for Petitioner Wynona C. Braswell

Vickie Goodman, Petitioner
2800 Palafox Lane
Tallahassee, Florida 32312
vgoodman@csmaintenance.net

W. Douglas Hall, Esquire
Carlton Fields, P.A.
215 S. Monroe St., Suite 500
Tallahassee, Florida 32301
whall@carltonfields.com
sdouglas@carltonfields.com
Attorney for Respondent Palafox, LLC

Gregory T. Stewart, Esquire
Carly J. Schrader, Esquire
Heath Stokley, Esquire
Nabors, Giblin, & Nickerson, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, Florida 32308
gstewart@ngnlaw.com
cschrader@ngnlaw.com
hstokley@ngnlaw.com
legal-admin@ngnlaw.com
Attorneys for Respondent Leon County

George E. Lewis, II
2003 North Gadsden Street, No. 6
Tallahassee, Florida 32301