

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
ST. JOHNS COUNTY, FLORIDA

CASE NO.: CA16-958
DIVISION: 55

PONTE VEDRA CORPORATION,
a Florida Corporation,

Plaintiff,

v.

ST. JOHNS COUNTY, FLORIDA
a political subdivision of the State
of Florida,

Defendant(s).

_____ /

**ORDER DENYING PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT
AND GRANTING DEFENDANT'S CROSS-MOTION FOR PARTIAL SUMMARY
JUDGMENT**

THIS MATTER came to be considered by the Court upon Plaintiff's Motion for Partial Summary Judgment as to Count II of the Amended Complaint filed on May 29, 2018 as well as Defendant's Cross-Motion for Partial Summary Judgment filed on August 28, 2018. This Court has had the opportunity to review and consider both motions, together with the supporting materials, as well as the memoranda in opposition thereto. The Court has also had the opportunity to hear and consider argument of counsel presented at both the September 7, 2018 and October 5, 2018 hearings. Present at both hearings were Plaintiff's counsel Lauren Purdy, Esq., Lynn Pappas, Esq. and Staci Rewis, Esq. Defense counsel Cliff Shepard, Esq. appeared at both hearings while defense counsel Bradley Bulthuis, Esq. appeared at the October 5th hearing only.

Plaintiff, Ponte Vedra Corporation ("PVC") is the corporate owner of the approximate 100 acre parcel of real property known as the "Outpost" site ("the Property"). Defendant, St. Johns

County (“the County”) is the county in which the Property is located. St. Johns County’s current Comprehensive Plan (“Comp Plan”) assigned the Property a land use designation of “Conservation.” On July 11, 2016, PVC filed a Planned Unit Development Rezoning application with the County seeking approval of a low density residential development project named “Vista Tranquilla.” The St. Johns County 2025 Comprehensive Plain was in effect as of the filing of the application and remains in effect. The Vista Tranquilla PUD site is mapped as “Conservation” on the Future Land Use Map (“FLUM”). The Current Comp Plan contains Policy A.1.11.5 relating to lands designated on the FLUM as “Conservation.” Policy A.1.11.5 of the Comp Plan provides:

The exact boundaries of the land use designations on the Future Land Use Map may require interpretation in order to determine the appropriate land use designation of various parcels and lots. When necessary, the following criteria shall be used to establish the location of a specific boundary and to allow minor deviations, if not clearly delineated on the Future Land Use Map:

- (a) The closest parcel or lot line when a land use designation boundary splits a specific parcel or lot. This provision will carry additional weight if the portion of the split lot or parcel is precluded from development as defined by the Land Use Element. However, in no instance shall a boundary line be extended more than two hundred (200) feet to incorporate the entire parcel or lot. A specific boundary line may not be extended more than one time unless changed by a Comprehensive Plan amendment.
- (b) In the absence of a nearby parcel or lot line, any geographic, manmade, or environmental features which serve as natural boundaries (E.G. roads, canals, streams, wetlands, municipal boundary, or township. Range, section lines). However, in no instance shall a boundary line be extended more than two hundred (200) feet. A specific boundary line may not be extended more than one time unless changed by a Comprehensive Plan amendment.
- (c) The landward boundary of tidal marsh designated Conservation shall be the mean high water line and shall also include those upland islands located waterward of the mean high water line of the tidal marsh. The exact landward boundary of the other areas designated Conservation lands on the Future Land Use Map shall be determined by a filed survey performed pursuant to applicable regulatory requirements.

A map notation on the FLUM specific to lands shown as “Conservation” provides as follows:

Areas designated Conservation are approximate in nature and the exact boundaries shall be determined by environmental survey and established pursuant to applicable regulatory requirements.

Based on the above verbiage, PVC maintains the position that although the current land use designation for the Property is “Conservation,” the text of the Comp Plan indicates that this is a conditional designation, subject to subsequent boundary adjustment based on site specific field survey performed to applicable regulatory requirements. PVC contends that the “Conservation” designation is not appropriately applied and that parts of the Property should be designated as Residential C.

St. Johns County Land Development Code (“LDC”) § 10.01.01 provides:

In the event that any question arises concerning the application of regulations, performance standards, definitions, Development criteria, or any other provision of this Code, the County Administrator shall be responsible for interpretation and shall look to the Comprehensive Plan for guidance. Responsibility for interpretation by the County Administrator shall be limited to standards, regulations and requirements of this Code, but shall not be construed to include interpretation of any technical codes adopted by reference in this Code, nor be construed as overriding the responsibilities given to any commission, board or official named in other sections or articles of this Code.

LDC § 10.01.02 requires the County Administrator to respond by issuing a letter of interpretation within ten working days of a request. LDC § 9.07.02 permits the applicant or any adversely affected person to appeal the Administrator’s letter of interpretation to the Board of County Commissioners.

In its Amended Complaint, PVC alleges there is a present, actual, concrete dispute between the parties concerning PVC’s rights under LDC §§ 10.01.01, 10.01.02, 5.03.01, 5.03.02 and 9.07.02 to a formal and appealable response by the County Administrator to PVC’s request for Administrative Interpretation. In that request, dated August 31, 2017, PVC sought clarification concerning whether the County Administrator adopted the planning department’s comment that PVC had not demonstrated that the exact boundaries of the land use designation is not clearly

delineated on the FLUM.¹ In its Motion for Partial Summary Judgment as to Count II, PVC argues that LDC §§ 5.03.01(C) and 5.03.02 (A) require PUD applications, such as PVC's pending application, to be consistent with the Comp Plan. PVC characterizes its request to the County Administrator as concerning whether PVC's proposed Conservation boundary adjustment meets the Comp Plan consistency requirement of the LDC.

The County argues that PVC is seeking a declaration compelling the County Administrator to provide an administrative interpretation of the County's statutorily required Comp Plan that would be unauthorized and without effect under the plain language of the County's LDC. The County argues that PVC is attempting to sidestep the statutory review and hearing process in favor of a closed door "administrative" change that would be prohibited by Florida Law. The County argues that the plain language of the LDC precludes administrative interpretations of any law, document, or requirement other than the LDC itself. The County argues that the LDC's requirement of Comp Plan consistency does not establish a right to an interpretation of the Comp Plan itself. The County argues the LDC and Florida law foreclose any right to a binding administrative interpretation of the Comp Plan. The County argues that § 10.01.01's requirement that the Administrator look to the Comp Plan for guidance on interpretations serves as more evidence that the provision does not authorize administrative interpretations of the Comp Plan. Directing the Administrator to look to the Plan for guidance when interpreting the LDC implies that the Comp Plan is separate from the LDC, and that the Administrator would not be interpreting the Comp Plan directly. The County argues the County must hold a quasi-judicial hearing to decide whether a zoning application adheres to local regulations and that the Administrator's interpretation would not serve a useful purpose.

¹ In prior requests, PVC asserted that the Conservation designation applied to the property was based upon erroneous data from satellite imagery which assumed the entire Property was jurisdictional wetlands and referenced a Wetlands Cite Assessment provided to the Planning Director.

Generally, a motion for summary judgment must meet the strict procedural requirements enumerated in Fla. R. Civ. P. 1.510. The requirements set forth therein are designed to protect the litigants' constitutional right to a trial on the merits of a particular claim. Bush v. State Farm Fire & Cas. Co., 711 So. 2d 68, 69 (Fla. 2d DCA 1998) (citing Bifulco v. State Farm Mutual Auto. Ins. Co., 693 So. 2d 707 (Fla. 4th DCA 1997)). The Court may grant a motion for summary judgment if the pleadings, discovery, affidavits and other evidentiary materials establish that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Fla. R. Civ. P. 1.510(c). "The party moving for summary judgment has the initial burden of demonstrating the nonexistence of material issues of fact; after the movant has tendered competent evidence supporting its motion, the burden shifts to the other party to come forward with opposing evidence to show a question of material fact exists." Hicks v. Hoagland, 953 So. 2d 695, 697 (Fla. 5th DCA 2007) (citing Carnes v. Fender, 936 So. 2d 11 (Fla. 4th DCA 2006)). The trial judge must draw every inference or resolve every doubt in favor of the party opposing the motion. Petruska v. Smartparks-Silver Springs, Inc., 914 So. 2d 502, 504 (Fla. 5th DCA 2005)); see also Craven-Lazarus v. Pennymac Holdings, LLC, 199 So. 3d 1029, 1030 (Fla. 4th DCA 2016) (all inferences must be made in favor of non-moving party). Summary judgment should not be granted unless the facts are so crystallized that nothing remains but questions of law. Snow v. Byron, 580 So. 2d 238 (Fla. 5th DCA 1991); see also Craven-Lazarus, 199 So. 3d, at 1030 (summary judgment appropriate only where there are no genuine issues of material fact and movant is entitled to judgment as a matter of law) (citing Cohen v. Arvin, 878 So. 2d 403, 405 (Fla. 4th DCA 2004)). "If the evidence raises any issue of material fact, if it is conflicting, if it will permit different reasonable inferences, or if it tends to prove the issues, it should be submitted to the jury as a question of fact to be determined by it." Phillips v. Republic Financial Corp., 157

So. 3d 320, 324 (Fla. 5th DCA 2015) (quoting Moore v. Morris, 475 So. 2d 666, 668 (Fla. 1985)). Declaratory relief is available when the availability of administrative procedures is in dispute. See S. Riverwalk Investments, LLC v. City of Ft. Lauderdale, 934 So. 2d 620, 622 (Fla. 4th DCA 2006). Where the court's determination of the issues in a case depends on the construction of a written document and the legal effect of the language of the document, the question is essentially one of law and only determinable by entry of summary judgment in favor of one of the parties. See Cox v. CSX Intermoda, Inc., 732 So.2d 1092, 1096 (Fla. 1st DCA 1999); Coleman v. B.R. Chamberlain & Sons, Inc., 766 So.2d 427, 429 (Fla. 5th DCA 2000).

Here, the issue in dispute is whether the County Administrator is required to issue an opinion regarding whether the Conservation area is adjustable as indicated by Policy A.1.11.5 of the Comp Plan. The Staff has communicated its opinion that the boundaries are clear and that no further interpretation is required. However, PVC seeks a determination by the County Administrator, because the Administrator's letter would be appealable pursuant to § 9.07.02 of the LDC. The Court finds that § 10.01.01 is clear that the County Administrator's authority to interpret is limited to interpretations of the LDC. Although PVC argues that because the LDC contains provisions that make consistency with the Comp Plan material, consistency with the Comp Plan is therefore a Code issue that can be interpreted by the County Administrator. PVC further argues that the impetus of its request was the Staff's comment that the PUD was not consistent and that PVC simply wants a decision on the boundaries so they can adjust or withdraw their PUD application. PVC also argues that the County "routinely" gives early boundary application determinations for consistency purposes. However, as the County argued in rebuttal, these determinations were through staff reports, not through the appealable mechanism of § 10.01.01.

The Court finds that the plain meaning of § 10.01.01 limits the provision's applicability to interpretation of the LDC. The Court finds that PVC is in fact requesting an interpretation of the Comp Plan, not the Code. Regarding PVC's contention that they are seeking a "point of entry", the Court notes that PVC's "point of entry" is their PUD application.² The Court finds that the LDC's declarations of legislative intent demonstrates the intention that § 10.01.01 is limited to interpretations of the LDC. Further, a plain reading of the LDC establishes that an interpretation by the County Administrator issued under § 10.01.01 cannot bind any County board or commission. Thus, in the event that the County Administrator issued a determination, any future decision made by a County board or commission would not be required to adhere to that decision. In other words, even if the County Administrator agreed with PVC on its interpretation of the Comp Plan, the County board or commission would not be bound to do the same. Accordingly, the Court finds there is no present need for declaratory relief, as said relief would not bind the County even if resolved in PVC's favor and would amount to an order to supply an advisory opinion.

Because the Court finds that the undisputed facts establish that PVC has no right to an interpretation of the Comp Plan by the County Administrator, and that any such interpretation would not resolve any substantive issue, PVC's motion will be denied and the County is entitled to summary judgment as to Count II. Accordingly, it is:


ORDERED AND ADJUDGED:

1. That PVC's Motion for Partial Summary Judgment as to Count II is hereby DENIED, and the County's Cross Motion for Partial Summary Judgment is hereby GRANTED.

² The relevant boards and commissions with authority to approve applications may agree with PVC's argument that the Property's current land use designation is erroneous.

2. The parties shall proceed accordingly.

DONE AND ORDERED in chambers, in St. Johns County, Florida, on 11 day of December, 2018.

A handwritten signature in black ink, appearing to read "J. Michael Tighe", is written over a rectangular area with a light gray grid pattern. The signature is fluid and cursive.

CIRCUIT JUDGE

Copies to:

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