

**ADMINISTRATION COMMISSION  
AGENDA**

**September 21, 2004**

**The September 8, 2004, Cabinet Meeting was cancelled due to Hurricane Frances, items 1-2 are being resubmitted for your review.**

1. **Request approval of the minutes for the meeting held June 24, 2004.**
  
2. **Consideration of a Revised Recommended Order issued by the Division of Administrative Hearings in the proceeding Charles Heston, Oak Haven Preservation Association, Harold Mosley, James Coleman, Michael and Laura Langton, Mary Ann Saadeh, Robert and Virginia Gardner, and Marie Schuller (Petitioners) v. City of Jacksonville (Respondent) and Bartram Atlantic, LLP, and Wal-Mart Stores East, L.P. (Intervenors). (DOAH Case No. 03-4283GM) (AC Case No. ACC-04-004).**

On October 27, 2003, the City of Jacksonville adopted Ordinance No. 2003-1070-E, a small scale amendment, changing the future land use designation on the Future Land Use Map from Residential Professional Institution (RPI) to Neighborhood Commercial (NC). The land use change was made on an approximately 8.5 acre parcel of property owned by Bartram Atlantic, LLP. Wal-Mart Stores East, LP, has a contract to purchase the property from Bartram Atlantic, LLP, for development of a freestanding grocery store.

In response to the land use amendment, Petitioners, Charles Heston, Oak Haven Preservation Association, Harold Mosley, James Coleman, Michael and Laura Langton, Mary Ann Saadeh, Robert and Virginia Gardner, and Marie Schuller filed a petition for formal administrative proceedings with the Division of Administrative Hearings (DOAH) on November 18, 2003. Petitioners contend the small scale amendment was not in compliance because it was not based on adequate data and analysis and was internally inconsistent with other provisions of the City of Jacksonville Comprehensive Plan. Bartram Atlantic, LLP, was granted intervenor status on December 10, 2003. An administrative hearing was conducted by Administrative Law Judge Donald R. Alexander on January 7 and 8, 2004, in Jacksonville, Florida. Judge Alexander issued a Recommended Order on March 5, 2004, recommending the Administration Commission enter a final order determining that the small scale development amendment adopted by the City of Jacksonville is not in compliance.

The Administration Commission received joint exceptions to the DOAH Recommended Order from the City of Jacksonville and Bartram Atlantic, LLP, and Wal-Mart Stores East, LP, on March 26, 2004. Petitioners filed response to exceptions to the Recommended Order on April 5, 2004, and filed a clarified response to exceptions on April 8, 2004.

The Administration Commission met on June 24, 2004, to consider the DOAH Recommended Order. Upon consideration, the Commission issued an Order of Remand for further DOAH proceedings in light of changed circumstances and an internal inconsistency in the Recommended Order. The Commission directed DOAH to reopen its record and accept

additional evidence on the issue of whether the City of Jacksonville has amended its Highway Functional and Classification Map to change the designation of Bartram Road and to clarify the internal inconsistency in the Recommended Order. DOAH conducted further proceedings and issued a Revised Recommended Order on July 22, 2004, recommending the Administration Commission enter a final order determining that the small scale amendment adopted by the City of Jacksonville is not in compliance.

The Administration Commission received joint exceptions to the DOAH Revised Recommended Order from the City of Jacksonville and Bartram Atlantic, LLP, and Wal-Mart Stores East, LP, on August 6, 2004. Petitioners filed a response to exceptions to the Revised Recommended Order on August 16, 2004.

**Recommendation:**

The staff recommendation will be distributed separately.

**Back-Up:**

DOAH's Recommended Order received on March 11, 2004. (Previously distributed with June 24, 2004, agenda.)

Respondent's and Intervenors' joint exceptions to the Recommended Order received on March 26, 2004. (Previously distributed with June 24, 2004, agenda.)

Petitioners' response to exceptions to the Recommended Order received on April 5, 2004. (Previously distributed with June 24, 2004, agenda.)

Petitioners' clarified response to exceptions received on April 8, 2004. (Previously distributed with June 24, 2004, agenda.)

Administration Commission's Order on Remand issued on June 25, 2004. (Previously distributed with September 8, 2004, agenda.)

DOAH's Revised Recommended Order issued on July 22, 2004. (Previously distributed with September 8, 2004, agenda.)

Respondent and Intervenors' exceptions to DOAH's Revised Recommended Order on remand received on August 6, 2004. (Previously distributed with September 8, 2004, agenda.)

Petitioners' response to exceptions to Revised Recommended Order on remand received on August 16, 2004. (Previously distributed with September 8, 2004, agenda.)

Draft Final Order to be distributed separately.