047 OA. 3-1-93

IN THE SUPREME COURT
STATE OF FLORIDA

CASE NO. 79,720

BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA

Petitioner,

v.

JACK R. SNYDER and GAIL K. SNYDER, his wife

Respondents.

AMICUS CURIAE BRIEF OF FLORIDA ASSOCIATION OF COUNTIES

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STATEMENT OF THE CASE AND OF THE FACTS

The Statement of the Case and of the Facts as contained in the Petitioner's Brief, and any supplementation thereof contained in the Respondent's Brief, are accepted by the FLORIDA ASSOCIATION OF COUNTIES.

SUMMARY OF THE ARGUMENT

Whether a governmental function is legislative or quasi-judicial is determined by the essential nature of the function. The essential nature of the legislative function is the enactment of law. Zoning--the determination of which laws apply to the use and development of lands--is a legislative function, which cannot be delegated by a local government legislative body.

The essential nature of a quasi-judicial function is the finding of facts and the application of controlling legislative standards and guidelines, pursuant to notice and a hearing judicial in nature, to determine adversarial rights. While the zoning power may not be delegated, a local legislative body may enact a zoning ordinance and comprehensive plan, complete in themselves, and may delegate the authority to decide which zoning district effectuates the standards and guidelines for particular lands, provided the ordinances contain sufficient guidelines and standards to determine if the legislative policy is being effectuated. Such a delegated function would then be quasi-judicial.

The District Court of Appeals erroneously determined that action upon all rezoning applications, under all comprehensive plans and zoning ordinances, is a quasi-judicial function, without regard to the essential nature of the function under the particular legislative rezoning scheme adopted by the local government in its ordinances. Whether rezoning should remain a legislative function or be delegated as a quasi-judicial function, is a legislative, home rule, policy issue for each city and county to decide.

ARGUMENT

I. THE ESSENTIAL NATURE OF THE FUNCTION BEING PERFORMED DETERMINES WHETHER THAT FUNCTION IS LEGISLATIVE OR QUASI-JUDICIAL.

Under the Florida Constitution, as under the United States Constitution, there are three branches of government which exercise the three basic powers of government: legislative, executive, and judicial. As stated in Florida Motor Lines, Inc. v. Railroad Commissioners, 100 Fla. 538, 129 So. 876(1930):

> . . . the essential nature and effect of the governmental function to be performed, rather than the name given to the function or to the officer who performs it, should be considered in determining whether the particular function is a "power of government" within the meaning of the Constitution; and, if it is such a "power," whether it is legislative, executive, or judicial in its nature, so that it may be exercised by appropriate officers of the proper department. . . .
> 129 So. at 881.

The Court went on to hold that, while legislative, executive, and judicial powers may not be performed by administrative officials, such officials may be authorized by statute to perform quasi-legislative or quasi-judicial functions. As with legislative, executive, and judicial functions, it is , again, the essential nature of the function which determines whether it is a quasi-legislative or quasi-judicial one:

> It is the essential nature of the official act that determines whether it is quasi judicial. if the action is taken on prescribed adversary hearing and involves the exercise of independent judgement in determining controversies that directly affect adversary legal rights or privileges claimed by individuals, it is at least quasi judicial and may be reviewed on certiorari in proper cases if the action has the character of finality and no other remedy is prescribed or allowed by law.
> 11 C.J. 121 et seq.

* * *

> Under the common law in force in this state, a statute providing for due notice and an adversary hearing by a legal official body, of conflicting claims to new and special rights or privileges conferred by the statute, and for due exercise by the official body of independent judgment in making an authoritative determination of the contested claims under the law, the determinative order granting or denying the right or privilege under the statute, may be quasi judicial in its nature and have the quality of finality, making a writ of certiorari a proper means for a permissible judicial review of the order where no other remedy is afforded by law. [Emphasis added.]
> 129 So. at 882-3.

The judicial function is not involved in this case, and its essential nature need not be defined. The quasi-legislative function is also not involved in this case, but essentially it is the enactment of administrative rules.

Involved in this case are the legislative and quasi-judicial functions. The legislative function is, essentially, the law-making power of government. Florida Motor Lines,Inc. v. Railroad Commissioners, supra at 881. As to the quasi-judicial function, its essential nature has been defined and described by the courts many times, in addition to the description quoted above.

Citing State ex rel. Williams v. Whitman, 116 Fla. 196, 150 So. 136 (1933), this Court stated in West Flagler Amusement Co. v. State Racing Commission, 122 Fla. 222, 165 So. 64 (1935):

> In that opinion also the distinction was clearly drawn between the quasi legislative and quasi judicial functions of administrative commissions; the test of the quasi judicial function being whether or not the statutory tribunal had exercised a statutory power given it to make a decision having a judicial character or attribute and consequent upon some notice or hearing provided to be had before it as a condition for the rendition of the particular decision made. . . .

[Emphasis added.]
165 So. at 65.

The executive function has not yet been mentioned. This is essentially the power to execute and enforce laws enacted by the legislative authority, but it is often similar to the quasi-judicial function. Quoting its opinion in West Flagler Amusement Co. v. State Racing Commission, supra, this Court noted the distinction in Modlin v. City of Miami Beach, 201 So.2d 70, 74 (Fla. 1967):

> "[T]he test of the quasi judicial function [is] whether or not the statutory tribunal had exercised a statutory power given it to make a decision having a judicial character or attribute and consequent upon some notice or hearing provided to be had before it as a condition for the rendition of the particular decision made."

> In DeGroot v. Sheffield, Fla. 1957, 95 So.2d 912, this court was faced with the task of distinguishing between executive and judicial or quasi-judicial power and action. We therefore explained that a power authorized to be exercised on the personal judgment of the acting authority is purely executive, but that where notice and hearing are required and action is based upon the showing made at the hearing the action is judicial or quasi-judicial.
>
> * * *
>
> It appears, therefore, that although the end-product of executive and judicial discretion--i.e., the application of general rules to specific situations or persons--is substantially identical, they may nevertheless be distinguished according to the respective procedures required. If the affected party is entitled by law to the essentially judicial procedures of notice and hearing, and to have the action taken based upon the showing made at the hearing, the activity is judicial in nature. If such activity occurs other than in a court of law, we refer to it as quasi-judicial. [Emphasis added.]

II. THE ESSENTIAL NATURE OF THE ZONING FUNCTION IS LEGISLATIVE.

This Court has always held, and until recently, Florida's District Courts of Appeal have consistently held, that the zoning of land--the enactment of laws regulating the use and development of land--is a legislative function. E.g., Gulf & Eastern Development Corp. v. City of Fort Lauderdale, 354 So.2d 57, 59 (Fla. 1978); Josephson v. Autrey, 96 So.2d 784, 788 (Fla. 1957); County of Pasco v. J. Dico, Inc., 343 So.2d 83, 84 (Fla. 2d DCA 1977); Town of Belleair v. Moran, 244 So.2d 532, 533 (Fla. 2d DCA 1971; Watson v. Mayflower Property, Inc., 223 So.2d 368, 373 (Fla. 4th DCA 1969), cert. disch. 233, So.2d 390 (Fla. 1970); County of Brevard v. Woodham, 223 So.2d 344, 348 (Fla. 4th DCA 1969), cert. den. 229 So.2d 872 (Fla. 1969); Graham v. Talton, 192 So.2d 324 (Fla. 1st DCA 1966); and Harris v. Goff, 151 So.2d 642, 645 (Fla. 1st DCA 1963).

The courts of other states, as well, are virtually unanimous in this determination, as are the federal courts. Said the court in South Gwinnett Venture v. Pruitt, 482 F.2d 389, 390-1 (5th Cir. 1973):

> We differ in only one salient regard from the decision of the district court. Our difference concerns the nature of an application for the rezoning of a tract of land. As we recently noted in Higginbotham v. Barret, 473 F.2d 745 (5th Cir., 1973) [1973]:
>
> > "The law is settled that the rezoning of property, including the preparation of comprehensive land use plans, involves the exercise of judgment which is legislative in character and is subject to judicial control only if arbitrary and without rational basis. [Citations omitted.]"

> The adoption of a legislative plan for the entire community must be distinguished from the treatment which a specific tract of land receives when its owner petitions for reclassification under that plan. As the record in this case demonstrates, consideration of that petition is an exercise of legislative power in a case by case adjudicative setting. [Citations omitted.] Thus distinguished from the legislative action of adopting a comprehensive zoning plan, the adjunctive decision inherent in tract rezoning requires the decision maker to adhere to concepts of minimal due process. [Citations omitted.] [Emphasis added.]

The essential nature of zoning determines it to be a legislative function. The determination of what uses should be permitted, how the heights of buildings should be limited, how wide yard setbacks should be, how small a lot should be allowed, how stormwater runoff should be required to be controlled, and similar zoning issues, as to various land areas within a city or county, are matters of legislative policy which epitomize the law-making power.

Recently, however, there has been some confusion in Florida's trial and appellate courts which has culminated in the District Court of Appeals opinion rendered in this case. Some of the recent decisions appear to have resulted rom the courts simply not focusing on the essential nature of the zoning function. In other cases, it appears that courts have decided the issue in reverse: if the determination is reviewable by certiorari, the function must be quasi-judicial. (This is, of course, incorrect, since decisions made in some functions which are not quasi-judicial may be made reviewable by certiorari by general law.) And, in this case, it appears that the court intruded into the legislative function and decided, as a policy issue, that zoning and rezoning decisions as

to specific parcels of land should be quasi-judicial and reviewable by certiorari.

Florida courts have sometimes erroneously focused on the procedural aspects of a particular function to determine whether it was a legislative or quasi-judicial act. They have also often relied erroneously on DeGroot v. Sheffield, 95 So.2d 912 (Fla. 1957), which, as noted above, had nothing to do with a legislative decision, but dealt only with the distinction between a quasi-judicial function and an executive one. Looking at the procedural aspects of a particular determination to decide whether it was legislative or quasi-judicial is putting the cart before the horse. The essential nature of the action determines what type it is, and what type of action is being performed determines, to a great extent, what procedures should be followed to satisfy the requirements of due process. As recognized by the court in Board of County Commissioners of Hillsborough County v. Casa Development Ltd. II, 332 So.2d 651, 654 (Fla. 2d DCA 1976), requirements of notice and hearing do not make an action inherently legislative into a quasi-judicial one. If they did, the adoption of every non-emergency ordinance by a city or county would be a quasi-judicial function because of statutory requirements for public notice and public hearing.

Just as required notice and hearing do not change the essential nature of the function being performed, neither does a required review by certiorari. Much of the current confusion in Florida law regarding rezoning decisions stems from the fact that,

in Dade County, rezoning decisions have for many years been reviewable by certiorari because of provisions of the Dade County charter and, later, the county's zoning ordinance. Similar charter and ordinance provisions are now in effect in a few other cities and counties.

In addition to having no effect on the essential nature of a rezoning determination, however, a special act or ordinance provision limiting review of a rezoning decision to a petition for writ of certiorari is of questionable validity. At least one Florida appellate court has held that a municipality does not have the authority to vest a circuit court with jurisdiction, Cherokee Crushed Stone, Inc. v. City of Miramar, 421 So.2d 684, 685 (Fla. 4th DCA 1982). Furthermore, Article V, Section 5 (b), of the Florida Constitution provides that, "Jurisdiction of the circuit court shall be uniform throughout the state." There is also an argument that the Legislature may not limit review of rezoning decisions to a petition for writ of certiorari through the adoption of a special act, such as a county charter. That would appear to violate the Constitutional requirement of uniform circuit court jurisdiction throughout the state. It would also appear to violate the Florida Constitutional limitation of Article III, Sections 11 (a)(1) and (7), which prohibit special acts pertaining to the jurisdiction of officers or the time limitation for bringing a civil action.

In its opinion in this case, the District Court of Appeals attempted to justify its policy decision by relying on an Oregon

decision (which has now been somewhat repudiated in Oregon, as will no doubt be discussed in other briefs filed herein) and by making a faulty analysis of the essential nature of the rezoning function. As will be discussed hereinafter, this analysis might not have been faulty if focused specifically on the Brevard County Comprehensive Plan and Zoning Ordinance, but the opinion generally discusses all rezonings by all local governments.

In adopting a zoning ordinance, a local government typically establishes several zoning districts, each with its own particular set of regulations governing land use and development. Determining which set of regulations--which laws--apply in which areas of the city or county is unmistakably an exercise of the lawmaking power. The decision as to which set of laws should apply to a particular parcel is within the legislative discretion, subject only to constitutional requirements that the application of a particular set of regulations to a specific parcel of land must be for a public purpose and cannot be confiscatory or arbitrary and unreasonable. Under the "fairly debatable" standard, courts in Florida--and in virtually every other state--have always held that a determination of which zoning district should apply to a particular parcel of land will be upheld if it makes sense for any reason related to the public health, welfare, and safety.

Thus the validity of a decision on a rezoning application does not depend on the showing made at the public hearing on the application, as in a quasi-judicial hearing, because valid public health, welfare, and safety reasons supporting the decision might

never have been raised and discussed at the public hearing.

Decisions on rezoning requests also do not involve the application of a particular set of statutory criteria to the facts of each particular request in order to determine the rights of the parties involved, unless a local government's comprehensive plan and zoning ordinance set out specific standards and criteria for what types of land, what locations, and what development patterns are appropriate for each zoning district and create a right to a particular zoning district when all of the standards and criteria are met. Decisions on rezoning applications are thus not judicial in nature and are not, therefore, quasi-judicial.

As discussed hereinafter, the legislative authority of a city or county may choose to adopt a comprehensive plan and zoning ordinance which do set out such criteria and standards for each zoning district, and may delegate to itself, sitting as an administrative agency, or to some other board or commission, the authority to make factual determinations and apply such standards and criteria in deciding rezoning applications to the facts as found. In that event, decisions on rezoning applications would be quasi-judicial.

The opinion of the District Court of Appeals also does not take into account that a specific parcel of land under one ownership might be larger than many small and moderate size cities. The rezoning of this one specific parcel might involve more discretionary policy considerations on public health, welfare, and safety issues than the rezoning of an entire city.

III. IF PROPERLY DELEGATED, THE FUNCTION OF ZONING AND REZONING LAND MAY BE MADE A QUASI-JUDICIAL ONE.

Determining what uses can be made of a particular parcel of land, what building setbacks and height limitations apply to development of that parcel, how it can be subdivided, and how its use and development should otherwise be regulated, is the law-making function and is unquestionably a legislative one. However, just as with any law-making function, a city or county legislative body may adopt general standards and guidelines for which particular set of rules should be applied to which type or types of land, and if the standards and guidelines are sufficiently complete and unambiguous to prevent unbridled discretion by an official or board, it may delegate to an official or board the authority to apply those standards and criteria and to decide the appropriate zoning district for each parcel of land.

Some new comprehensive plans adopted under the Local Government Comprehensive Planning and Land Development Regulation Act include guidelines and standards sufficient to virtually limit the appropriate zoning designation for each area of the city or county to only one district. Under such a comprehensive plan, the application of the guidelines and standards to any parcel of land by an official or board would seem to be what, by its essential nature, is the performance of a quasi-judicial function. Perhaps the District Court of Appeals had before it in this case just such a comprehensive plan--and assumed that all new comprehensive plans were similar--when it decided that all rezoning decisions as to

particular parcels of land, by all local governments, are quasi-judicial, rather than limiting its decision solely to rezonings under the Brevard County Comprehensive Plan.

As held in McRae v. Robbins, 9 So.2d 284, 290 (Fla. 1942), the legislative and judicial powers of government may not be delegated, but quasi-judicial and quasi-legislative functions, "not involving any essentially judicial or legislative powers," may be conferred upon administrative agencies when laws are complete in themselves but require findings of fact and detailed or continuing action in their administration. This Court then recited the basic limitations on the creation of such quasi-judicial and quasi-legislative functions:

> Where a statutory board, commission or officer or other tribunal or agency is lawfully given administrative and limited quasi-legislative or quasi-judicial authority or duties, such authority or duties must not include any substantive legislative or judicial powers that may not be delegated; and such authority must be duly defined and limited by laws complete in themselves in prescribing delegated authority, so that by appropriate judicial review and control any action taken pursuant to such delegated authority or duties may be kept within the defined limits of the authority conferred and within the express and implied limitations of all controlling provisions and principles of dominant law. . . . [Emphasis added.]
> 9 So.2d at 290-1.

These concepts were also clearly and succinctly expressed by this Court in Florida Welding & Erection Service, Inc. v. American Mutual Insurance Co. of Boston, 285 So.2d 386, 388 (Fla. 1973):

> The constitutional provision vesting legislative power (Fla.Const. art III, § 1) requires of course that only the Legislature shall establish the legislative policies and standards of the state. It is also clear, however, that the Legislature may delegate to authorized officials and agencies the authority to promulgate subordinate

> rules within prescribed limits and to determine facts to which the established policies of the Legislature are to apply. What the Legislature may not delegate is the power to enact laws or to declare what the law shall be or to exercise unrestricted discretion in applying the law. [Footnotes omitted.] [Emphasis added.]

These rules apply in regard to zoning ordinances, just as they do to other legislative enactments, and they apply when the administrative agency, upon which the zoning ordinance confers quasi-judicial or quasi-legislative functions, is the legislative authority itself, acting in a different capacity. North Bay Village v. Blackwell, 88 So.2d 524, 526 (Fla. 1956).

A city council or city or county commission could not, therefore, enact a comprehensive plan and zoning ordinance which conferred upon an administrative agency the unfettered discretionary authority to determine what the law should be with regard to the use and development regulations made applicable to particular land parcels. Such unfettered discretionary authority (subject, of course, to constitutional limitations) is the legislative function, which may not be delegated.

Clearly, however, local government legislative bodies may confer on officials and agencies, including themselves acting as administrative agencies, quasi-judicial functions, as noted in the authorities quoted above and in State ex rel. Taylor v. City of Jacksonville, 101 Fla. 1241, 133 So. 114 (1931):

> The Supreme Court of the United States early held that no fundamental or whole power could be delegated, but that the power to supply the details and apply the policy as expressed by the Legislature to changing factual conditions could be. [Citations omitted.] [Emphasis added.]
> 133 So. at 115.

As noted in many of these quoted authorities, when a legislative act confers quasi-judicial or quasi-legislative functions, the policy to be applied in their performance--the standards and guidelines to control whatever discretion is permissible--must be expressed in the legislation itself. See, also, State ex rel. Taylor v. City of Tallahassee, 130 Fla. 418, 177 So. 719, 720-1 (1937).

As held in Florida Teaching Profession - National Education Association v. Turlington, 490 So.2d 142, 146 (Fla. 1st DCA 1986):

> The constitutional prohibition against the unlawful delegation of legislative authority is designed to prevent the exercise by any one but the legislature of the sovereign power to enact laws. It is also designed to safeguard against the exercise of unrestricted discretion in the application of the law by an administrative agency charged with this enforcement. League of Mercy Association v. Walt, 376 So.2d 892 (Fla. 1st DCA 1979). This doctrine does not preclude all administrative discretion as to a statute, provided that reasonable guidance is continued in the statute under attack. Department of Administration v. Nelson, 424 So.2d 852 (Fla. 1st DCA 1982). [Emphasis added.]

It has often been held that the "crucial test" as to whether or not a statute or ordinance unlawfully delegates legislative power is "whether the statute contains sufficient standards or guidelines to enable the agency and the courts to determine whether the agency is carrying out the legislature's intent." E.g., Department of Insurance v. Southeast Volusia Hospital District, 438 So.2d 815, 819 (Fla. 1983), app. dism. 466 U.S. 901 (1984), and Apalachee Regional Planning Council v. Brown, 546 So.2d 451, 453 (Fla. 1st DCA 1989), app'd. 560 So.2d 782 (Fla. 1990).

There are innumerable zoning ordinances throughout Florida

which confer on an administrative agency, including a legislative body sitting as one, quasi-judicial functions in the approval or disapproval of variances, special exception or conditional uses, site plans, subdivisions, and the like. There are also countless judicial opinions dealing with such delegated quasi-judicial functions and the sufficiency or insufficiency of zoning ordinance guidelines and standards to ensure that unrestricted discretion in applying the ordinance--the legislative function--has not been delegated. There is no reason why a quasi-judicial function of determining which zoning district shall apply to each parcel of land, and of considering rezoning applications against changed factual circumstances affecting the appropriate district classification, could not also be similarly conferred on an administrative agency, provided the zoning ordinance and the applicable comprehensive plan contain sufficient guidelines and standards to determine if the legislative intent is being effectuated.

What all of these above-cited authorities mean, in regard to this particular case, is that the Brevard County Zoning Ordinance and Comprehensive Plan may well have conferred such a quasi-judicial function upon the board of county commissioners, acting as an administrative agency, or upon some other board or commission. That is not what the District Court of Appeals held, however. The District Court erroneously determined that in <u>all</u> cases, in <u>all</u> Florida cities and counties, the determination of which zoning district regulations shall apply to a specific parcel

of land is a quasi-judicial function, regardless of whether or not any particular zoning ordinance and comprehensive plan involved confer such a function and contain sufficient guidelines and standards to effectuate the legislative policy as to how such districts should be applied.

IV. WHETHER THE REZONING OF SPECIFIC PARCELS OF LAND SHOULD BE LEFT A LEGISLATIVE FUNCTION OR MADE A QUASI-JUDICIAL FUNCTION IS A POLICY DECISION WITHIN THE SCOPE OF LOCAL GOVERNMENT HOME RULE POWERS.

The District Court of Appeals opinion discussed various policy reasons as to whether the consideration of rezoning applications should be a legislative determination or should be conferred as a quasi-judicial function. No doubt, many of the briefs filed herein will discuss the pros and cons of such policy issues as:

- Whether local government rezoning decisions should be subject to whatever more stringent due process requirements apply to the exercise of a quasi-judicial function.

- Whether local governments should be subject to the effects of any more stringent due process requirements as may apply to the exercise of a quasi-judicial function, such as a greater likelihood of 42 U.S.C. § 1983 actions based on alleged denials of due process.

- Whether adversely affected persons should be foreclosed from judicial review of rezoning approvals or denials because of a failure to create a sufficient record in the rezoning public hearing.

- Whether all cities and counties--and their taxpayers--should be subject to the time, personnel, expertise, and cost requirements of making a sufficient record to justify every rezoning approval and denial.

- Whether rezoning officials should be restricted from conferring outside of the public hearing with adversely affected persons and other citizens, as in the performance of a quasi-judicial function.

Such policy issues will not be further addressed in this brief, because they are irrelevant to the Court's appropriate resolution of this case. Such issues are irrelevant simply because they are matters of policy. As policy matters, their consideration and determination are legislative functions. Such legislative policy matters must, constitionally, be left to the discretion of local government legislative officials, in the exercise of their home rule powers, in deciding whether or not the determination of which zoning classification to apply to which specific parcels of land should be delegated as a quasi-judicial function.

The District Court of Appeals should not have intruded itself into this legislative arena.

V. THE DISTRICT COURT OF APPEALS SHOULD BE DIRECTED TO REMAND THIS CASE TO THE CIRCUIT COURT FOR A DETERMINATION OF WHETHER OR NOT THE BREVARD COUNTY COMPREHENSIVE PLAN AND ZONING ORDINANCE HAVE CHANGED THE ESSENTIAL NATURE OF REZONING BREVARD COUNTY LANDS FROM A LEGISLATIVE FUNCTION TO A QUASI-JUDICIAL ONE.

In resolving a matter that should be left as a local government, home rule, legislative, policy matter, the District Court of Appeals erroneously distinguished two controlling opinions of this Court (but not others) holding that the zoning of property is a legislative function. To arrive at its conclusion in regard to a matter of local government legislative policy, the District Court of Appeals then adopted the rationale of an Oregon judicial opinion which might well conform to all of the legal principles cited herein <u>if</u> local governments in Oregon do not have home rule power as to such matters and <u>if</u> Oregon statutes provide for a legislative scheme in which rezoning determinations are conferred upon administrative agencies as quasi-judicial functions, with sufficient statutory guidelines and standards to effectuate the legislative intent. The Oregon opinion has no applicability, however, in Florida, where that is obviously not the case.

The controlling issue in this case is whether or not the Brevard County Zoning Ordinance and Comprehensive Plan have conferred upon an administrative agency, with appropriate standards and guidelines, a quasi-judicial function in approving or denying rezoning applications. If not, the rezoning authority remains as it always was--a legislative function. That issue has not yet been determined.

CONCLUSION

Based on the reasoning expressed, and the authorities cited, herein, the FLORIDA ASSOCIATION OF COUNTIES requests this honorable Court to clarify the confusion which now exists in Florida law regarding the nature of the zoning and rezoning power of local governments and to reverse and remand this case to the District Court of Appeals with instructions requiring further remand to the Circuit Court for the determination of the essential nature of the rezoning of lands under the particular provisions of the Brevard County Zoning Ordinances and Comprehensive Plan.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished by U.S. Mail to Frank J. Griffith, Jr., Esquire, P.O. Drawer 6310-G, Titusville, Florida, 32782-6515; Paul Gougelman, Esquire and Maureen M. Matheson, Esquire, 1825 South Riverview Drive, Melbourne, Florida, 32901; Jane C. Hayman, Esquire, and Nancy Stuparich, Esquire, Post Office Box 1757, Tallahassee, Florida, 32302-1757; Jonathan A. Glogau, Assistant Attorneys General, The Capitol, Tallahassee, Florida 32399-1050; John J. Copelan, Jr., County Attorney and Sharon Cruz, Assistant County Attorney, 115 South Andrews Avenue, Fort Lauderdale, Florida, 33301; William J. Roberts, Esquire, Post Office Box 1386, Tallahassee, Florida, 32302; Robert M. Rhodes, Esquire, 215 South Monroe Street, Suite 601, Tallahassee, Florida, 32301; Robert D. Guthrie, Esquire, 2725 St. Johns Street, Melbourne, Florida, 32940 and Richard E. Gentry, Esquire, 201 East Park Avenue, Tallahassee, Florida, 32301 this 19th day of October, 1992.

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