

Avalon Ventures, LLC v. Martin County, 24 Fla. L. Weekly Supp. 281a (Fla. Cir. Ct. 2016).

Proper Procedure for Settlements During Appellate Proceedings Must Be Followed to be Effective; County Must Not Deny A Zoning Application If the Applied Zoning Category Is Listed as an Acceptable Category

In *Avalon Ventures, LLC v. Martin County*, Florida's 19th Circuit issued a decision regarding (1) the appropriate way to file a settlement agreement once appellate proceedings have commenced, and (2) the essential requirements of the law for zoning amendments.

In 2013, Avalon filed an application to change the zoning of a property slated for development. After a meeting with the local planning agency, the Board of County Commissioners ("Board") could not come to a decision whether to grant or deny the request. Then at a public quasi-judicial hearing in July 2014, the Board denied the application for the zoning change, keeping the current zoning for the property.

In October 2014, Avalon filed for a writ of certiorari with the 19th Circuit Court. However, prior to the presentation of the merits to the Court, Avalon reached a settlement with Martin County and filed a "Joint Notice of Filing Settlement Agreement and Order Approving Settlement Agreement in Companion Case No. 2015-0295 CA." The Court disregarded the notice and cited Florida Rules of Appellate Procedure, which state that the court must be notified immediately of the settlement of a pending case by filing a signed stipulation for dismissal. Fla. R. App. P. 9.350. Because the Joint Notice did not comply with the Rule, the Court proceeded to hear the case on the merits.

Turning to the merits, Avalon argued that the Board "failed to observe the essential requirements of law in its decision to deny the zoning change application." *Avalon* at *1. County staff advised the Board that the current zoning of the property was inconsistent with the medium density land use policy of the County Comprehensive Plan ("Plan"), and that a zoning change would be "mandatory." *Avalon* at *2 (emphasis removed). The staff report went on to include Avalon's desired zoning category in a list of medium density zoning categories consistent with the Plan. *Id.* The Court held that by not granting Avalon's application to rezone to one of the permissible zoning categories, the Board did not "observe the essential requirements of law as enumerated by the [Martin County Land Development] Code." *Id.* The writ of certiorari was granted, and the Board's order was quashed. *Id.*