

FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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No. 1D18-1280

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CITY OF JACKSONVILLE BEACH  
and CITY OF JACKSONVILLE  
BEACH PLANNING COMMISSION,

Appellants,

v.

BCEL 4, LLC, and BCEL 5, LLC,

Appellees.

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On appeal from the Circuit Court for Duval County.  
Robert M. Dees, Judge.

December 18, 2018

PER CURIAM.

The appellants, City of Jacksonville Beach and City of Jacksonville Beach Planning Commission (the City), appeal an order from the circuit court granting a petition for writ of mandamus and alternatively granting a petition for writ of certiorari filed by the appellees, BCEL 4, LLC, and BCEL 5, LLC (BCEL).

We reverse the portion of the order granting BCEL mandamus relief. *See Browning v. Young*, 993 So. 2d 64, 65 (Fla. 1st DCA 2008) (reviewing a circuit court order granting mandamus relief by plenary appeal). BCEL failed to establish the City's decision to

approve or deny its concept plan for plat application was a purely ministerial one. *See Rhea v. Dist. Bd. of Trs. of Santa Fe Coll.*, 109 So. 3d 851, 855 (Fla. 1st DCA 2013) (mandamus is a remedy to command performance of ministerial act in which there exists no room for the exercise of discretion) (citing *Town of Manalapan v. Rechler*, 674 So. 2d 789, 790 (Fla. 4th DCA 1996)); *see also Key Biscayne Gateway Partners, Ltd. v. Village of Key Biscayne*, 172 So. 3d 499 (Fla. 3d DCA 2015) (affirming dismissal of mandamus petition where the local government's action was quasi-judicial and not ministerial). The portion of the order granting BCEL's petition for writ of mandamus is reversed.

As to the portion of the order granting BCEL's petition for writ of certiorari, our review is by second-tier certiorari. *See Haines City Cmty. Dev. v. Heggs*, 658 So. 2d 523, 530 (Fla. 1995). We deny the City's petition for second-tier certiorari review as the circuit court afforded procedural due process and did not depart from the essential requirements of law. *See id.*

We REVERSE the portion of the order granting mandamus relief. We DENY second-tier certiorari review of that portion of the order granting certiorari.

ROBERTS, MAKAR, and BILBREY, JJ., concur.

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***Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.***

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Michael J. Roper and Dale A. Scott of Bell & Roper, Orlando, for Appellants.

Emily G. Pierce, Cristine M. Russell, and William Michaelis of Rogers Towers, P.A., Jacksonville, for Appellees.