

**ARTICLE XXXII QUASI-JUDICIAL HEARING IN THE CITY OF
ORLANDO, FLORIDA
EXCEPTIONS TO THE RECOMMENDED ORDER**

**FRANK SEBESTYEN
PETITIONER,**

**CASE NO. QJ2016-001
LOWER CASE NO. ZON2015-000032**

v.

**CITY OF ORLANDO FLORIDA,
A FLORIDA MUNICIPAL CORPORATION
RESPONDENT,**

AND

**MOCKINGBIRD ORLANDO LLC/
MIRANDA FITZGERALD, ESQ
APPLICANT/ RESPONDENT**

Petitioner files the following exception to the “Conclusions of Law” (Section IV) of the Recommended Order wherein the Hearing Officer states that “The proposed City Planned Development designation on the property complies with (i) the State of Florida Comprehensive Plan (Chapter 187, Florida Statutes), (ii) County and Municipal Planning Land Development Regulation (Chapter 163 Florida Statutes, Part II), (iii) the City’s Growth Management Plan, (iv) the City’s Comprehensive Plan, and (v) all other applicable codes ordinances and laws at issue. City Chief Planner, Elisabeth Dang showed and testified that the proposed PD zoning is compatible with surrounding uses, which are primarily residential.”

Petitioner, jointly with fellow Petitioners Mr. Ronald Cumello and John Daly, have now presented their petition regarding the Applicants proposed new zoning for the Vista Park development before the Municipal Planning Board, The City Council and the Quasi- Judicial Hearing Officer and have yet to receive a judgement on the central issue of their petition ie.

Has the City of Orlando met its obligation to consider the adverse impact of the Applicant’s proposed development, Vista Park, on surrounding neighborhoods? If the answer to this question is “no” then the City is certainly not in compliance with the Growth Management Plan.

According to both Francis Flynn and Elizabeth Dang of the City’s Technical Review Committee (TRC) in sworn testimony at the quasi-judicial hearing:

1. The TRC bases its decisions relative to zoning requests primarily on the City’s Growth Management Plan (GMP) and the City Code. Interpretation of the full intent of the GMP requires both adherence to the stated requirements contained therein as well as judgement on the part of the City to ensure that

adverse impacts on surrounding neighborhoods do not occur or are at least minimized.

2. The GMP clearly states in its Vision Statement that neighborhoods, including the quality of life of their residents, should be protected. Looking forward the GMP sets as its goal to provide “the physical, economic and social framework within which the Orlando area will grow over the next 20 or so years leading to an enhanced quality of life for present and future residents”.

3. Mr. Flynn and Ms. Dang stated that they lack any experience dealing with the adverse impacts of very large projects like Vista Park on surrounding communities and, in fact, had no experience dealing with organized community objections to any developments.

5. Mr. Flynn, with Ms. Dang’s concurrence, agreed that Vista Park was a very large development and that he would expect it to have a major impact on the existing local communities.

6. Mr. Flynn, with Ms. Dang’s concurrence, stated that The City (TRC) was required to be impartial as among Petitioners, Applicants and the City relative to its recommendations as to whether zoning applications should be approved or not approved.

7. When asked to provide an estimate of the amount of time/effort the TRC spent evaluating the potential adverse impact of Vista Park on the surrounding neighborhoods, a subject about which both officials acknowledged having no direct knowledge, neither was able to do so, nor did they have a process for determining the validity of the concerns expressed by the Petitioners and their fellow Vista East residents. The only conclusion that can be drawn from this testimony is that little or no time was spent considering resident issues.

8. In the absence of any information provided by the City relative to adverse impacts on local area residents, Ms. Dang was asked what her view was of the petition signed by hundreds of residents opposed to the Vista Park development. Her illuminating reply was “They’ll get used to it.” The fact of the matter is, the City cannot even make that obviously biased statement with any degree of certainty because it has never followed-up on previous developments to determine what impacts they have had on the surrounding neighborhoods. Our supposition would be that the impacts were largely negative and that the residents either learned to cope with them or moved out.

9. Ms. Dang agreed that the GMP specifically states that “urban sprawl” is to be avoided in future development. She also agreed with the common

dictionary definition of that term and then offered that in her expert opinion most of Vista Park could be considered urban sprawl.

To summarize: a) Applicant proposes a very large development which the City acknowledges will have a major impact on the surrounding neighborhoods. b) The City also acknowledges that they are required by the GMP to use their impartial judgement to determine if this impact will adversely affect those neighborhoods. c) Although the City has no experience dealing with community opposition to major developments, the TRC made no effort to assess the validity of the Petitioners' and their fellow residents' concerns. d) Despite this clear oversight on the part of the TRC, both the MPB, with two members dissenting, and the City Council, unanimously, inexplicably and with very little discussion voted to approve the Applicant's zoning application.

In conclusion, it absolutely defies logic that reasonable people can take the position that Vista Park as it is now designed will not adversely affect the neighboring communities in major ways. The only question is; will the City Council again simply rubber stamp the Applicant's zoning application or will it acknowledge that its approval process in this instance was flawed and send the application back to the TRC to be properly reviewed?

Petitioner believes, after having now availing himself of all established public and quasi- legal channels open to him, that the zoning appeal process in Orlando is far from impartial and, indeed, is so weighted in favor of large property developers that local residents have no effective means of protecting their quality of life, the unique character of their neighborhoods or their property values.

Respectfully submitted on this fifth day of July 2016,

/s/ Frank J. Sebestyen
Petitioner