

ARTICLE XXXII QUASI-JUDICIAL HEARING
IN THE CITY OF ORLANDO, FLORIDA

EXCEPTIONS TO THE RECOMMENDED ORDER

**FRANK SEBESTYEN,
RONALD CUMELLO AND
JOHN DALEY
PETITIONERS,**

**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 an exception to the Recommended Order “Conclusions of Law” Section IV, Page 8, 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.

The Recommended Order failed to address a number of issues identified in the Hearing by the Petitioners that will have an adverse impact on the surrounding communities including:

1. The Petitioners provided testimony and exhibits concerning the flood and water management issues in Subarea 39. The Order acknowledged the Petitioner’s concerns. The Applicant stated that any issues would be resolved prior to permit issuance. This statement seemed to satisfy the Hearing Officer. However, the Order did not address two key questions. First the fact that the Staff Report to the Municipal Planning Board (MPB) did not identify that the property was located in a FEMA 100 Year Flood "A" category zone. Failure to disclose this fact by the City Staff hid a public safety concern and potential adverse impact to surrounding communities. Second there was no evidence presented that the City made any attempt to determine if any development on this property was consistent with the following City requirement:

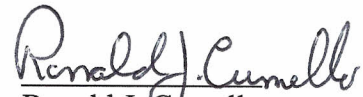
“The City's Land Development Regulations and Engineering Standards Manual shall include standards to protect areas subject to seasonal or periodic flooding from the impacts of land development in accordance with Conservation Element Policies 1.3.5 and 1.3.6.”

2. The Petitioners provided testimony and exhibits that there was no reasonable expectation that Orange County Public Schools would build any schools on the Vista Park property due to the Pinecastle Jeep Range issue and contrary to City Code Sec. 68.205. - Residential Neighborhood Guidelines for Schools. The City Staff Report identifies that the existing schools in Subarea 39 are currently overcrowded and the likelihood is that this situation will continue once Vista Park is developed.
3. The Petitioners provided testimony and exhibits that the recommended zoning change does not meet the requirement of the City Code for Mixed Use/Neighborhood Development Designations under Sec. 62.638., Sec. 62.639. - General Standards, and Sec. 68.204. - Neighborhood and Residential Center Guidelines. The proposed Neighborhood Center is not adequate to serve the Vista Park residents and will have an adverse impact on the surrounding communities.
4. As stated in the Order the Applicant provided testimony that the location of a community park has not been determined. However, the City of Orlando Capacity Availability Report August 1, 2015 clearly placed the location of 35-acre Community Park within Subarea 39. The failure to ensure the location of a community park within Subarea 39 is in conflict with the Capacity Availability Report.

Based on the above omissions the Petitioner files an exception to the Recommended Order and the conclusions stated in Section IV Page 8.

Certificate of Service

I HEREBY CERTIFY that on July 5, 2016, a true and correct copy of the foregoing was filed with Cindy Sanford, City of Orlando's Quasi-Judicial Hearing Administrator, via electronic mail.


Ronald J. Cumello

Cc: John Daly
Frank Sebestyen