

City of Sanford

Resident's Guide to a Quasi-Judicial Land Use Decision Process

The purpose of this Resident's Guide to the Quasi-Judicial Process is to assist residents in understanding how to participate in the quasi-judicial processes within the City of Sanford. It is intended as a tool for any individual who has no particular expertise in the law concerning the granting of development permits, site plan approvals, special exceptions, variances, and similar types of proceedings before the City Commission, Planning and Zoning Commission and Historic Preservation Board. Residents who wish to participate in proceedings before these boards should have a basic understanding of their function, the rules relative to how they make decisions and how to effectively participate in these proceedings to either oppose or support quasi-judicial applications before the City Commission and City boards.

WHAT DOES QUASI-JUDICIAL MEAN?

Several years ago, the Florida Supreme Court changed the law on rezoning, site plan approvals, special exceptions, variances and similar types of development approvals from a *legislative* decision process to a *quasi-judicial* decision process. A legislative process is one in which policy is created by a legislative body (the City Commission). A quasi-judicial action is when the policy (ordinance) is applied to the facts of a particular situation. Essentially, a quasi-judicial process is the application of policy to a fact situation.

In short, these decisions must be made based on the established guidelines, not on the popularity of the proposal.

Typical quasi-judicial proceedings are those in which a property owner makes an application to the City for a rezoning, site plan approval, a special exception or variance. There are rules and standards set forth in the ordinances regarding the criteria that has to be met in order to get a special exception or a variance, what has to be included in the site plan, and what the standards are for reviewing these applications. The facts of the case are applied to the standards set forth in the ordinance, and the decision is then made.

The proceedings before these boards in a quasi-judicial matter are somewhat like a court proceeding; therefore, the term "quasi-judicial." They have some of the elements of a judicial or court proceeding.

In a **legislative** proceeding, the City Commission can consider anything that it thinks is important to help it make its decision, including the popularity or public acceptance of a particular policy. In a **quasi-judicial** proceeding, the City Commission and the City boards are not allowed to take into consideration the popularity of a particular development proposal or request for



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variance or special exception; they can only consider the *competent* and *substantial* evidence before the board or the City Commission.

WHAT IS COMPETENT AND SUBSTANTIAL?

The term "competent" means that the person is qualified to give evidence on that subject. If special training or specialized knowledge is required, it is necessary for the person testifying to prove that person's competency to testify as an expert on a particular subject. Examples of this would be (1) traffic impacts or traffic counts would be testified to by a traffic engineer; (2) whether a desired use may impact the land values of surrounding property could be testified to by a certified property appraiser; (3) whether the building of a wall or other barrier will destroy a wetland could be testified to by an environmentalist or engineer. These people have specific academic degrees or specialized training that qualifies them to testify as "experts," and that is what is meant by *competent* testimony; i.e., they are "competent" because they are particularly knowledgeable because of their training and/or experience in a particular field or subject matter. Opinions of lay residents in these areas are not considered "competent" evidence.

If you want to testify to a matter that requires special academic degrees or specialized training, you must make those degrees and that training known to the board before whom you are testifying, and you would normally present a résumé or other material detailing your specialized knowledge or training.

"Substantial" means that there is sufficient, relevant and credible evidence upon which to base a decision.

TESTIMONY BY LAY PERSONS

Citizens can testify as to factual matters and any element of the case that would not require specialized training or specific academic degrees. Board members cannot consider testimony from citizens that requires expert testimony. Key facts citizens should consider are elements of the Comprehensive Plan and Land Development Code that apply to the decision. The courts are becoming more generous in allowing lay testimony on certain subjects.

IT'S NOT A POPULARITY CONTEST

The City Commission or the board considering a quasi-judicial matter must make its decision based on the testimony before it. Other than common knowledge, they cannot consider anything that they encounter outside of the public hearing on the application.

Bringing 50 people to the hearing all wearing the same color t-shirt or carrying signs or some other type of demonstration of popular support or opposition is not supposed to be taken into consideration by the members of the City Commission or the board. Clapping and cheering in



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support of the statements of someone testifying is not supposed to occur. Asking everyone to stand up who is in favor of or in opposition to the application has been held by the courts to be improper.

It doesn't make any difference who has the most people and supporters at the hearing. It is the quality, persuasiveness, the relevancy of the testimony and the credibility of your witnesses presented to the board (and which become part of the record of the proceedings) that will make the case.

THE RECORD IS EVERYTHING

It is the record established at the hearing that will determine the outcome of the case. There must be competent and substantial evidence presented at the hearing to support the decision of the board. Without competent and substantial evidence in the record of the proceeding on which members of the board can rely, the decision of the board is subject to being overturned by a court.

Appeals to sympathy using non-relevant testimony (my view will change from trees to a building, the developer just wants to make money and leave, I've been a resident of the City of Sanford for 50 years, etc.) cannot be used to support a position you are taking either for or against the application. You must look to the standards of the ordinance and supply testimony, either lay testimony or expert testimony, on each of the **standards of the ordinance**. The testimony must be relevant, credible and oriented toward the standards set forth in the ordinance. Everything else is irrelevant and would legally have to be ignored by the members of the board.

The City of Sanford ordinances include the Comprehensive Plan which sets the underlying standards for development and the Future Land Use category; the Land Development Regulations Articles which provide procedures; and the Land Development Regulations Schedules which have specific development requirements and standards. The Land Development Regulations include several districts which apply to particular areas of the City. These include the Historic Preservation Code (Schedule S), the Lake Mary Boulevard and West 46/Rinehart Road Overlay District, and the Downtown/Riverfront/Midtown Overlay District (Schedule U).

The City of Sanford Comprehensive Plan is available at:

<https://www.sanfordfl.gov/departments/planning-and-development-services/comprehensive-plan>

The Land Development Regulations Articles are available at:

<https://www.sanfordfl.gov/departments/planning-and-development-services/land-development-regulations-ldr-articles-procedures>

The Land Development Regulations Schedules are available at:

<https://www.sanfordfl.gov/departments/planning-and-development-services/land-development-regulations-ldr-schedules-development-requirements>



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SHOULD I GET A LAWYER?

It is possible for citizen groups or persons in opposition to an application to prepare and present a good case, but it is not easy. If the matter is important to you and you think it will impact your property values or your life in some significant way, you may be well advised to employ a land-use attorney to assist you in the preparation and presentation of the case. The attorney will understand what the standards are and what type of evidence will be required to make a good record to protect a favorable decision or to appeal an unfavorable decision.

Organization of your presentation (with or without an attorney) is of paramount importance. Testimony should not be repetitive and should be relevant to the standards of the ordinance. Remember, although we live in a democracy, this is not a democratic process – it is a legal process. The City Commission or the board is not going to take a poll and decide that more people are in favor than are against, or vice versa. They are going to make their decision on the basis of the testimony before them. In a quasi-judicial hearing, the board members must be neutral decision makers – above politics or outside influences. Having an attorney on your side may give you the extra quality of presentation necessary to prevail.

ORGANIZE EARLY

If you intend to oppose an application, get involved in the process as early as you possibly can. The City of Sanford requires completion of a Citizens Awareness and Participation Plan (CAPP) meeting before submission of the development application. This meeting is conducted by the applicant, not the City, and is intended to let both the neighbors and the applicant know of plans and concerns early in the process.

At Planning and Zoning or City Commission hearings you need to understand the type of testimony that you should present. You need to understand the issues that are relevant to the case. You need to interact with City staff as soon as possible so that you can get a copy of the application and any other information presented by the applicant. You need to know what position the staff will take at the hearing. The City staff qualify as experts in the field of planning, and their testimony either for or against the application will be important. If you do not agree with the staff, you must present facts and testimony in opposition to the staff's recommendation and the applicant's witnesses.

Contacting the City Commission about a quasi-judicial matter that will come before the City Commission, although not in violation of the City's ordinances, could be deemed inappropriate. Although Commissioners might listen to people who are for or against the application ahead of time, they should only consider evidence that is testified to under oath and matters of common knowledge at the public hearing. Commissioners should not share their views before the public hearing and should make sure their decision is made based on the testimony provided at the public



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hearing. Should a Commissioner decide to speak to anyone who is for or against an application that comes before them, they are required to disclose that the conversation took place prior to the commencement of the quasi-judicial hearing.

Writing a letter rather than appearing at the hearing and testifying does not have the same value or impact since the applicant has a right to cross examine witnesses whose testimony is to be considered by the City Commission or the board. You cannot cross examine a letter; therefore, except in very unusual circumstances, the City Commission or the board cannot take these letters into account, but the letters will be part of the record.

If the matter is important to you, you need to attend the hearing and testify.

FINAL THOUGHTS

Start early. Stay in touch with the City staff. Get copies of the application and all relevant documents — they are public records and you are absolutely entitled to them. Be well organized — contact other people who may have an interest in the matter and elicit their assistance and participation. Know the ordinance standards against which the matter will be judged by the board or the City Commission. Provide competent and substantial evidence as to each one of those standards as well as you can. Get the help that you need from an attorney, a planner, an engineer, a property appraiser or anyone else who can give you the expert testimony assistance that you need to make a good presentation before the board and a good record in the proceedings. Don't discuss the matter with the board members or the members of the City Commission in advance of the hearing. Telling them of your support or opposition to the application during an encounter at the grocery store, is of no help to your case. You must present your testimony at the hearing for them to consider your thoughts.

If you would like to participate in a quasi-judicial hearing, need further information about the quasi-judicial process, relevant City ordinances, and the contents of applications, contact the City of Sanford's Planning & Development Services Department at 407-688-5140 or email Planning@SanfordFL.gov.

This guide is not intended to be legal advice. To determine your legal rights and to understand more fully how to participate in a quasi-judicial proceeding, you should contact legal counsel.

Adapted from North Miami Beach, Florida and Dunedin, Florida.



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