

Court Holds Small-Scale Comprehensive Plan Amendment Can Be Challenged Via a Petition for Writ of Certiorari

Preserve the West Grove, Inc. and several individuals (collectively, “Petitioners”) filed a petition for writ of certiorari after the City of Miami Commission (the “Commission”) approved a small-scale comprehensive plan amendment and a companion rezoning application to develop low density commercial uses. Petitioners argued that the Commission failed to observe essential requirements of the law and that its decision was not supported by competent substantial evidence.

The threshold issue was whether Petitioners were required to challenge the small-scale comprehensive plan amendment through an original action in circuit court. The City and the developer argued in the affirmative because the ordinance was enacted in accordance with statutory small-scale development procedures. The Supreme Court of Florida has held that “a challenge to a local government’s decision on a small-scale development amendment **may be** commenced as an original action in the circuit court.” *See Coastal Dev. of N. Fla., Inc. v. City of Jacksonville Beach*, 788 So. 2d 204, 208 (Fla. 2001). The court concluded that while Petitioners may file an original action in circuit court, they are not required to do so. Next, Petitioners asserted that the Commission neither observed the essential requirements of the law nor supported their decision sufficiently with competent substantial evidence.

The Second DCA has held that “overlooking sources of established law or applying an incorrect analysis of the law results in a departure from the essential requirements of law.” *City of Tampa v. City Nat’l Bank of Fla.*, 974 So. 2d 408, 411 (Fla. 2d DCA 2007). Petitioners argued that the zoning application was inconsistent with the legal requirements of the Miami Comprehensive Neighborhood Plan (“MCNP”) and therefore the Commission’s approval of it departed from the essential requirements of law. The City Staff Report found that the application was “consistent” with the MCNP objectives and goals and recommended it for approval. The Planning, Zoning and Appeals Board recommended approval of the comprehensive plan amendment and rezoning application. The court thus held that the Commission did not deviate from the essential requirements of law.

Petitioners argued that the Commission’s decision was not based on competent substantial evidence because the proposed development would transform the neighborhood in a manner inconsistent with the comprehensive plan and incompatible with the existing neighborhood. In addition to letters of support from numerous homeowners near the Property and from neighboring groups, the Commission also received a recommendation for approval in the Staff Report. Specifically, the Staff Report noted that “the proposed rezoning is a response to various changing conditions within the area and city wide.” The court thus held that the Commission adhered to the essential requirements of law and supported its decision with competent substantial evidence.