

**A REGULAR MEETING MINUTES
PLANNING AND ZONING BOARD
February 06, 2006**

CALL TO ORDER

Chairman Bedsole called the regular meeting of the City of Winter Garden Planning and Zoning Board to order at 6:34 p.m. in City Hall Commission Chamber. The invocation was given following by the Pledge of Allegiance. The roll was called and a quorum was declared present.

PRESENT: Chairman Larry Bedsole, Board Members; Tina Aldrich, Colin Sharman, Minister Xerxes Snell, Mac McKinney, and Bob Buchanan. Also present were City Attorney Frank Bedell, City Manager Mike Bollhoefer, City Planner Mark Cechman, Senior Planner Kelly Randall, Planner Brandon Byers, Planning Technician Lauren Simmons and Planning Technician Lorena Blankenship.

ABSENT: Board Member Bea Deariso

1. APPROVAL OF MINUTES

Approval of minutes from regular meeting held January 09, 2005

Motion by Bob Buchanan to approve the above minutes. Seconded by Mac McKinney, the motion carried unanimously 6-0.

PRESENTATIONS

2. Parks and Recreation

City of Winter Garden Parks and Recreation Director Jay Conn approached the Board and stated that a state grant through the Florida Department of Environmental Protection Office of Greenways and Trails is currently being sought to help fund a project consisting of enhancements to the trail system in Winter Garden. He stated that a spur off of the West Orange Trail is planned to be developed in 2008, which will travel down Lulu Creek beginning at Division Street and ending at Crest Avenue and explained that the

recreation department is now pursuing plans that will continue that portion of the trail spur from Crest Avenue to Newton Park on Lake Apopka, which will allow trail users to access Newton Park and Lake Apopka. Mr. Conn explained that no formal action is required from the Board, but the acknowledgement, input and approval of the grant application is very valuable.

The Board Members and Mr. Conn further discussed issues such as the amount of the grant, date of the development completion, and additional improvements to Newton Park. The Board Members expressed their support towards the grant application.

NEW BUSINESS

Comp Plan Amendment, Development Order and Rezoning

3. Fowler Groves

- **Amendment of the Development Order**
- **Remedial Comprehensive Plan Amendment**
- **Minor Change to the PCD**

City Planner Cechman stated that in September, 2005 the City Commission approved the DO (*Development Order*) ordinance, the PCD (*Planned Commercial District*) ordinance, and the Comprehensive Plan Amendment ordinance. He explained that the DCA (*Department of Community Affairs*) is requesting some corrections to the DRI (*Development of Regional Impact*) including an ordinance of the City changing the DO and the NOPC (*Notice of Proposed Change*), which includes the insertion of the Master Development Plan; the Agreement between the City and The Sembler Company regarding North Daniels Road; and the Agreement between The Sembler Company and the FDOT (*Florida Department of Transportation*) regarding S.R.50. Mr. Cechman provided the Board with a copy of the proportionate share contribution for improvements to S.R.50 from The Sembler Company to the FDOT, which reflects the proportionate fair share of \$8,991,835.00. Mr. Cechman also explained that the DCA is also requesting some changes to the CPA (*Comprehensive Plan Amendment*) including the revision of the Future Traffic Circulation Map to reflect a six-lane Daniels Road through the Fowler property. City Planner Cechman stated that the amendment to the PCD ordinance consists of the revision to the hours of operation contained in the PCD rezoning ordinance, allowing the home improvement center to open at 6:00 a.m. instead of 6:30 a.m. and allowing the health club to be open from 5:00 a.m. to midnight, instead of 6:00 to 11:00 p.m. City Staff has reviewed the petitions and recommends approval.

Colin Sharman asked if the fair share contribution of \$8,991,835 would reduce the amount of money the City is expected to pay for improvements to S.R.50. City Manager Bollhoefer explained that The Sembler Company's contribution will help the City fill the funding gap.

Bob Buchanan expressed concerns related to changing the hours of operation for the home improvement store, stating that the traffic and noise may disturb residents of the area.

City Planner Cechman explained that the City's general code does not require specific times of operation, but this particular PCD specifically identifies the hours of operation. He explained that the PCD rezoning is also site plan specific and identifies all the boxes and uses and said that any significant changes will need approval of a new ordinance by the City Commission.

Hal Kantor, attorney representing The Sembler Company, approached the Board to answer questions and stated that considering issues such as noise and disturbance to residents in the area, the big boxes were relocated and the site plan was amended, identifying the location and uses of all facilities in the PCD, along with all requested fences and landscaping buffers.

Ed Lynch, 660 Home Grove Drive, Winter Garden (*Regency Oaks Subdivision*), approached the Board and spoke in opposition to the amendment to the PCD ordinance, stating that he lives right off Daniels Road and the traffic will affect him and other residents directly.

Tom Reedy, 14617 Country Estate Drive, Winter Garden, approached the Board and spoke in opposition to the amendment to the PCD ordinance, stating that at the community meetings, The Sembler Company assured the residents that the hours of operation will be limited to 7:00 a.m. He also stated that he did not have a problem if the home improvement stores opens earlier for retail business, but he expressed opposition to the loading dock activity earlier.

Shirley Smith, 21 West Crest Avenue, Winter Garden, approached the Board and spoke in support of having the health facility open at 5:00 a.m., but expressed concerns related to opening the home improvement store earlier.

Jerry Carris, 347 Bayside Avenue, Winter Garden, approached the Board and spoke in opposition to having the home improvement store open earlier.

Tina Aldrich commented that there have been some promises made to the community as far as hours of operation, and that the requested change should not make a significant difference to the businesses, but the trust of the community is vital at this juncture.

Bob Buchanan stated that according to the City's Code of Ordinances the noise ordinance specifies that no noise should be made before 7:00 a.m., and stated that if the subject request is granted, the home improvement store will actually be open one hour earlier.

City Manager Bollhoefer clarified that the PCD rezoning ordinance allows the business to open at 6:30 a.m. but the noise ordinance regulations will still be in effect and the City holds the authority to enforce them.

Tom Hareas, representing The Sembler Company, approached the Board to answer questions. City Manager Bollhoefer asked Mr. Hareas if the main purpose of the request was for customers to pick up materials at 6:00 a.m. Mr. Hareas responded affirmatively and stated that the request from the home improvement company was made because a great portion of their business is general contractors and sub-contractors who do business in the community and normally they have to be at the job site at 7:00 a.m. City Manager Bollhoefer asked if the requested change includes deliveries as well as pick up activities. Mr. Hareas responded affirmatively. Mr. Bollhoefer asked if The Sembler Company would be willing to compromise and restrict the hours of operation for delivery activities. Mr. Hareas responded affirmatively.

Colin Sharman stated that he is also in the contracting industry and having the home improvement store open earlier will be beneficial for the construction companies, but stated that normally their standard hours of operation are from 7:00 a.m. to 3:30.

Ed Lynch approached the Board again and stated that the pick up vehicles will also create noise and disturbance to the community.

Frank Imbruglia, 14015 Hampshire Bay, Winter Garden, approached the Board and expressed concerns related to the traffic and noise that even the pick up trucks will generate. He also stated that he was concerned about The Sembler Company coming back to the Board and asking for additional changes.

City Manager Bollhoefer stated that City Staff made it clear to The Sembler Company that all change requests concerning the hours of operation should be presented at one time and future additional changes will not be supported by City Staff.

Tina Aldrich asked if the hours of operation have been set for all different uses. City Planner Cechman responded that included in the agenda package, there is a copy of Ordinance 06-11, which clearly identifies the hours of operation for all businesses in the development.

Motion by Colin Sharman to approve Ordinance 06-09, Amending the Development Order. Seconded by Tina Aldrich, the motion carried unanimously 6-0.

Motion by Colin Sharman to approve Ordinance 06-10, Remedial Comprehensive Plan Amendment. Seconded by Tina Aldrich, the motion carried unanimously 6-0.

Motion by Colin Sharman to deny Ordinance 06-11, Amendment to the PCD Ordinance. Seconded by Tina Aldrich, the motion carried unanimously 6-0.

Variances and Special Exception Permits

4. 210 E. Lafayette Street - Variance

Planning Technician Simmons presented the Board with a request for approval of a four foot rear yard setback variance, to allow the property owners to construct a 10 by 34 foot screened porch. City Staff has reviewed the application and recommends approval.

Eric Chokelal, 210 E. Lafayette Street, Winter Garden, approached the Board to answer questions. Colin Sharman asked the applicant if he talked to his neighbors about his petition. Mr. Chokelal answered affirmatively and stated that no objections were made.

Motion by Tina Aldrich to approve the Variance. Seconded by Mac McKinney, the motion carried unanimously 6-0.

5. 261 Zachary Wade Street - Variance

Planning Technician Simmons presented the Board with a request for approval of an accessory building variance, to allow the construction of a boat dock with an 11 by 25 foot (275 square foot) covered area.

Chairman Bedsole and Tina Aldrich asked if similar structures have been approved in the area. Ms. Simmons responded affirmatively.

Motion by Colin Sharman to approve the Variance. Seconded by Minister Snell, the motion carried unanimously 6-0.

6. 1409 Fuller's Cross Road - Variance

City Planner Cechman presented the Board with a request for approval of two 4' side yard setback variances, to allow the property owners to construct an 88 foot wide house on a 100 foot wide lot. Mr. Cechman explained that because of the depth of the lot and the potential for impacts on the northern property owners, City Staff recommends approval of the 4" side yard setback variance request for the south side, but recommends denial for the 4' side yard setback variance for the north side.

Bob Buchanan stated that located on the lot to the south of the subject property there is a large swamp area, and asked if that parcel could be developed. City Planner Cechman responded that there are some ways to fill up that land and make it buildable, but permits and regulations from St John Water Management District will be involved.

Dennis Larkin, 1060 Chase Drive, Winter Garden, approached the Board and stated that he spoke to the property owners on the south side of his property, and they did not object to his request. He added that he would like to request an additional foot on the south side.

Bob Buchanan asked if the proposed home will be built directly besides the existing home located on the lot on the north side. Mr. Larkin responded that the proposed home will be located forward of (to the west) of the existing home on the lot to the north.

Chairman Bedsole asked the applicant if he knew how much usable land was on his lot. Mr. Larkin responded negatively, and stated that that information will be identified in the survey.

Mac McKinney asked the applicant if he was willing to for go the variance petition for the north side of the property, in lieu of an additional foot on the south side, changing the request from a 4' side yard set back variance to a 5' side yard setback variance. Mr. Lakin responded affirmatively.

There was some discussion among the Board Members, City Planner Cechman and City Manager Bollhoefer concerning the request for the additional foot for the variance on the south side of the property, and it was decided that the request was not unreasonable.

Mrs. Godin, 1417 Fullers Cross Road, Winter Garden, approached the Board and stated that they just purchased the lot to the north of the subject property and explained that they are planning on expanding the existing home to the 10 foot set back, and if the petition for the variance to the north is granted the two homes will be too close.

Motion by Tina Aldrich to approve a 5 foot side yard setback Variance to the south of the subject property. Seconded by Mac McKinney, the motion carried 5-1; Colin Sharman opposed.

Site Plans

7. West Orange Business Center

City Planner Cechman presented the Board with a request for approval of a site plan for a 96,000 square foot commercial flex-space project, located at the southeast corner of the Florida Turnpike and Winter Garden Vineland Road. City Staff has reviewed the application and since the site plan is consistent with the conceptual plan approved as part of the PCD, recommends approval with the conditions included in the agenda package, and the additional request that prior to receiving the Certificate of Occupancy for the site development, the Developer will provide the traffic signal and controller for a left turn signal at C.R.535 and S.R.50.

Patricia Tice, traffic engineer representing the applicant for the project, approached the Board and stated that they were informed that the total cost for the traffic signal could be between \$15,000 and \$ 30,000. She added that they were informed about this additional condition late last week, and they have some concerns since they do not know the exact cost of the traffic light. Ms. Tice stated that the cost could even be between \$60,000 and \$90,000, and it is very troubling for her client to agree to a blank check. She explained that they are willing to negotiate and contribute to the subject improvement, but stated

that the traffic problem at the subject intersection has evolved because of other developments already approved by the City in the area. Ms. Tice requested the Board to give the applicant some time to negotiate with City Staff and try to reach a mutual agreement.

Board Members, City Planner Cechman, and City Manager Bollhoefer discussed issues related to the traffic light request, such as details on the traffic control box, the possibility of setting a maximum contribution amount, and the contribution from The Sembler Company for road improvements.

Todd South, applicant for the project, approached the Board and stated that they were willing to pay a fair share of a minimum of \$15,000 or 50 percent of the total cost of the traffic light with a minimum of \$15,000 and a maximum of \$30,000. He also stated that the traffic situation at the subject intersection is an existing problem.

Chairman Bedsole suggested that perhaps the applicant and City Staff should work out a final solution before the City Commission meeting. Further discussion took place among Board Members, City Manager Bollhoefer and the applicant related to the traffic light request. Tina Aldrich expressed sympathy towards the applicant, stating that other developments in the area should have been accountable for providing the traffic light.

Motion by Tina Aldrich to approve the Site Plan with City Staff conditions identified in the City Engineers memo of November 15, 2005; the City Stormwater Engineer's memo of November 18, 2005; and the Fire Department's memo of November 17, 2005 (see attached), and with the recommendation that the applicant and City Staff meet together to agree on a final price for the developer to provide the traffic signal and controller for a left turn signal at C.R.535 and S.R.50. Seconded by Bob Buchanan the motion carried unanimously 6-0.

8. Foundation Academy

Senior Planner Randall presented the Board with a request for site plan approval for Phase I of Foundation Academy's private school campus located at the southeast corner of Avalon Road and Tilden Road. City Staff recommends approval with the conditions included in the agenda package.

Wade Bradford, owner of Foundation Academy, pointed out the City staff condition stating that "certificates of occupancy should not be approved until the required improvements to the intersection of C.R.545 and Tilden Road have been completed" and asked if that was an old comment. City Manager Bollhoefer responded affirmatively, and asked Mr. Bradford when the school will start their operations; Mr. Bradford responded sixteen months. City Planner Cechman stated that sixteen months might not be sufficient time to complete the improvements on the subject intersection, including the installation of the traffic signal.

City Manager Bollhoefer stated that perhaps Foundation Academy could provide another safe route for the families to get the students to school. Mr. Bradford stated that they could provide for the intersection if the cost sharing agreement could be worked out. City Manager Bollhoefer stated that the City is trying to have the subject intersection improvements completed as soon as possible, and added that the staff condition could be changed to “if the intersection is not completed, in order for Foundation Academy to receive approval of the Certificate of Occupancy another safe route must be provided for the students to get to school”.

Colin Sharman asked the applicant if he was in agreement to contribute to the improvements on C.R.545 without knowing the exact contribution amount. Mr. Bradford responded that the subject site plan will be approved subject to signing a Developers Agreement that has to be worked out and which will include the contribution terms. City Manager Bollhoefer explained that since Foundation Academy is a non-profit institution, the agreement with them will be different than the agreement with other developers, since Foundation Academy will follow under another impact fee category. Mr. Bollhoefer further explained that the applicant’s agreement will be based on fixing the intersection as a two lane road with a traffic light.

Motion by Bob Buchanan to approve the Site Plan with City Staff conditions (see attached). Seconded by Minister Snell, the motion carried unanimously 6-0.

9. 971 9th Street - B&A Financial

Senior Planner Randall presented the Board with a request for approval of a site plan for a parking lot associated with the conversion of the Joe’s Trading Post site into a financial services office for B&A Auto Sales located at 971 9th Street. City Staff has reviewed the application and recommends approval with the conditions included in the agenda package.

William Payne, 971 9th Street, Winter Garden, approached the Board to answer questions. Bob Buchanan asked the applicant if all the proposed offices will be used by B&A Financial or by tenants. Mr. Payne responded that the offices will be the corporate offices for B&A Financial. Mr. Buchanan also asked if auto sales will be conducted at the subject site; Mr. Payne responded negatively.

Motion by Minister Snell to approve the Site Plan with City Staff conditions (see attached). Seconded by Colin Sharman, the motion carried unanimously 6-0.

10. 410 E. Smith Street

Planner Byers presented the Board with a request for site plan approval for 410 E. Smith Street (*Outar Trucking*), for a parking lot associated with a small commercial trucking operation. City Staff recommends approval with the conditions included in the agenda package and the additional conditions that on the south side of the property, the applicant must place three wax myrtle shrubs between each of the live oaks in the landscape buffer;

no more than 15 trucks will be allowed on site; and all maintenance must be conducted inside the existing garage.

Motion by Mac McKinney to approve the Site Plan with City Staff conditions (see attached). Seconded by Bob Buchanan, the motion carried unanimously 6-0.

11. West Point Commons Lot 3

Senior Planner Randall presented the Board with a request for approval of a 9400 square foot retail/office outparcel located at the Publix Shopping Center (*West Point Commons*) on West Colonial Drive. City Staff has reviewed the petition and recommends approval with the conditions included in the agenda package.

Motion by Tina Aldrich to approve the Site Plan with City Staff conditions (see attached). Seconded by Minister Snell, the motion carried unanimously 6-0.

Plats

12. West Point Townhomes - Final Plat

Planner Byers presented the Board with a request for final plat approval for a 30 unit townhome subdivision located on Jackson Street, to the west of Park Avenue. City Staff has reviewed the application and recommends approval with the conditions included in the agenda package.

Motion by Tina Aldrich to approve the Final Plat with City Staff conditions (see attached). Seconded by Bob Buchanan, the motion carried unanimously 6-0.

ADJOURNMENT

There being no further business, the meeting was adjourned at 7:55 p.m.

APPROVED:

ATTEST:

Chairman Larry Bedsole

Planning Technician Lorena Blankenship