

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

**CALL TO ORDER**

**Chairman Bedsole** called the regular meeting of the City of Winter Garden Planning and Zoning Board to order at 6:33 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, Bea Deariso, 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 Regina McGruder, Planner Brandon Byers, Planning Technician Lauren Simmons and Planning Technician Lorena Blankenship.

**1. APPROVAL OF MINUTES**

Approval of minutes from regular meeting held February 06, 2005

*Motion by Tina Aldrich to approve the above minutes. Seconded by Bob Buchanan, the motion carried unanimously 7-0.*

**Presentations**

City Manager Bollhoefer introduced new City Attorney Gerry Clark, and stated that City Planner Cechman will provide the Planning and Zoning Board with a presentation concerning Planning and Zoning terms and subjects.

City Planner Cechman proceeded to give a Power Point Presentation concerning Site Plans, Plats, Rezonings, Comprehensive Plan Amendments, Variances and Special Exception Permits. He explained in detail issues such as the requirements and procedures for the different applications, as well as when a public hearing, an ordinance, and

approval by the City Commission is required (*hard copy of the Power Point Presentation is attached*).

## **NEW BUSINESS**

### **Variances & Special Exception Permits**

#### **2. 236 W. Cypress Street**

Planner Byers presented the Board with a request for approval of a 5 foot front yard setback variance, a 1 foot rear setback variance and a 5 foot lot depth variance at 236 West Cypress Street to allow the property owner to construct a new single family residence. He explained that the variance is requested because there is an existing 30' roadway easement that cannot be counted toward the total lot size. City Staff has reviewed the application and recommends approval.

Chariman Bedsole asked if the house will be built too close to the front road. Planner Byers responded negatively and explained that the new home will be approximately 25 feet from the road way.

Christie Spencer, 228 West Cypress Street, Winter Garden, approached the Board and stated that she lives at the adjacent lot and asked if the proposed house will be built too close to her home. Planner Byers explained that the subject request is strictly for the front yard and the rear of the property, but not for the sides.

Peter Lattner, 236 West Cypress Street, Winter Garden, approached the Board and stated that they are only requesting 5 feet for the front yard and 1 foot for the rear. He explained that they have a 26 foot setback on one side and a 20 foot setback on the other side.

City Manager Bollhoefer pointed out that the subject property is zoned R-2, which allows duplexes, but the applicant is building a single family home.

***Motion by Tina Aldrich to approve the Variances. Seconded by Bea Deariso, the motion carried unanimously 7-0.***

#### **3. 1070 Maxey Drive**

Senior Planner Randall presented the Board with a request for approval of a 5 foot front yard setback variance and a 3 foot rear yard setback variance at 1070 Maxey Drive to replace the existing single family residence with a new structure. City Staff has reviewed the application and recommends approval.

***Motion by Mac Mckinney to approve the Variance. Seconded by Minister Snell, the motion carried unanimously 7-0.***

#### **4. 1917 Black Lake Blvd. – Boat Dock Variance**

Planning Technician Simmons presented the Board with a request for approval of a boat dock variance with a 12'X36' covered boat house at 1917 Black Lake Boulevard. She stated that the applicant has received approval from the Stoneybrook West Homeowners Association and St. John Water Management District. City Staff has reviewed the application and recommends approval.

Mac McKinney asked how the rear yard setback is established when the property backs against a lake. City Planner Cechman responded that the rear set back is based on the normal high water line.

Erika Stakso, from Ivy Environmental, representing the applicant, approached the Board to answer questions.

Tina Aldrich pointed out that this is the first boat dock variance on the block, and that there are about 34 residences that also back up onto the lake. She expressed concerns about having additional requests for similar boat docks on that area. City Planner Cechman informed the Board that City Staff is currently working on a special boat dock ordinance, and that in the meantime City Staff is using the Accessory Structure Ordinance. He added that all applications for boat dock variances must be advertised and presented before the Planning and Zoning Board for approval.

Erika Stakso stated that they also have an affidavit from the adjacent property owners stating that they do not have any objection to the petition.

Mac McKinney asked some technical questions concerning the water depth and the size of the structure. Ms. Stakso satisfactorily responded to his questions.

***Motion by Bea Deariso to approve the Boat Dock Variance. Seconded by Tina Aldrich, the motion carried unanimously 7-0.***

**5. 252 Blue Stone Circle**

Senior Planner Randall presented the Board with a request for approval of a variance for a 2 foot accessory structure setback variance to allow the owners to maintain a previously permitted and constructed pool. She explained that the pool was constructed into the rear yard drainage easement and also violated the City Accessory Structure Code which requires pools to be built no closer than 5 feet to the rear property line. She also explained that after this variance request was advertised City Staff determined that the pool is actually 3 feet into the easement, therefore, the applicant needs approval of a 3 foot rear yard setback variance for a pool that was constructed in 1998. City Staff has reviewed the application and recommends approval since, because the property backs up to a retention pond, the drainage easement is less important than it may be in some other situations where a treatment swale might be necessary.

Board Members and City Staff discussed the fact that the applicant needs a 3 foot rear yard setback variance instead of a 2 foot rear yard setback variance as advertised. City Attorney Bedell explained that in the present situation the departure under the circumstances is minor enough that re-advertising is not necessary.

***Motion by Tina Aldrich to approve a 3 foot rear yard setback Variance to allow the property owners to maintain a previously permitted and constructed pool. Seconded by Minister Snell, the motion carried unanimously 7-0.***

## **6. 272 Virginia Drive**

Planner Byers stated that the property owner of 272 Virginia Drive is requesting approval for a 4 foot front yard setback variance and a 2 foot side yard setback variance to replace an existing carport with an enclosed garage. City Staff has reviewed the application and recommends approval.

Chairman Bedsole inquired about the existing carport and the roof line. Planner Byers responded that the roof line will not change, and explained that the existing carport is already into the setback and the property owners desire to enclose the carport and turn it into a full garage.

Joan Giovanni, 272 Virginia Drive, Winter Garden, approached the Board and stated that she has lived at her home for 12 years and explained that she would like to enclose the concrete slab that was already in existence when she bought the house.

Tina Aldrich pointed out that according to the diagram the roof line will be at the same level as the house and asked if the roof line will be raised. Ms. Giovanni responded negatively, stating that the roof line will be at the same level as the roof of the existing house.

***Motion by Bob Buchanan to approve the Variances to replace an existing carport with an enclosed garage. Seconded by Tina Aldrich the motion carried unanimously 7-0.***

## **7. Bronson Landing**

Senior Planner Randall presented the Board with a request for approval of 5 foot front yard setback variances for lots # 116 to 126 located at the Bronson Landing Subdivision. She stated that City Staff has looked very closely at this petition and explained that the Surveyor made a topographical error which led to a redesign of the project. The error also led to discussions with the City Engineering staff regarding the slope of the rear yards of the subject lots, which back onto the small pond between Bronson Landing and Wintermere Harbor. In order to provide for adequate treatment and provide for a more gradual slope into the pond, the Engineering Staff has recommended that the houses be moved five feet forward on the lots, which will be better, environmentally, for the pond, and will allow for better treatment of stormwater. She also reported that the approved PUD (*Planned Urban Development*) front yard setback is 25', and the proposed set back

for the subject lots will be 20'. City Staff has reviewed the application and recommends approval.

Chairman Bedsole inquired about the subdivision located to the east of the subject lots. Ms. Randall responded that Waterford Pointe Subdivision backs up to those lots, and basically the proposed houses will be five feet closer to their back yards.

Assistant City Engineer Mike Kelley approached the Board and stated that shifting the houses 5 feet closer to the road will allow a better transition and more room for the developer to construct the treatment swale at the back of the subject lots, before the water discharges into the wetland located to the west of the development.

Mac McKinney inquired about the engineering review performed at earlier stages of the project. Mr. Kelley answered that this project was initially reviewed before he was hired by the City, but explained that according to City Staff at the time of the initial review everything was laid out so the topographic bust was not obvious, and it was after the pre-construction meeting that the developer noticed the bust in the survey. He stated that the developer has gone through a significant amount of time redesigning the project, which has been reevaluated by the Engineering Department.

Tina Aldrich pointed out that not all the subject lots necessarily need the variance, but in order to keep it esthetically pleasing and all the homes at the same level, the developer is requesting the variance for all the subject lots.

Jim Goodmaster, 12918 Water Point Boulevard, Windermere (*Waterford Pointe Subdivision*), approached the Board and spoke in opposition to the subject request, stating that his property backs up to the subject lots, and the proposed homes will be closer to the roadway, eliminating parking spaces and congesting the area.

Jerry Carris, 347 Bayside Avenue, Winter Garden, approached the Board and expressed concerns related to the environmental issues, stating that those issues should be the overriding consideration.

Charles Kane, 2080 Roberts Pointe Drive, Windermere (*Waterford Pointe Subdivision*), approached the Board and stated that their Homeowner Association's request to construct a brick wall was denied by the developers of Bronson Landing and issues related to the quality, home sizes, and security issues would have been mitigated if the wall had been constructed. He mentioned other problems their community had faced with the Bronson Landing developers and spoke in opposition to the subject request, stating that he did not consider the variances to be necessary, but it was more like the developer's desire for bigger back yards.

City Manager Bollhoefer stated that City Staff is very concerned about the quality of water discharging into the pond.

Assistant City Engineer Mike Kelley stated that St. John's Water Management District has approved the plans presented before the Board. He explained that a stable slope is anything that is 3 to 1 or less, and that the 5 foot variance will allow them to maintain a minimum 3 to 1 slope, and anything steeper than that could possibly erode in the future.

Larry Wright, of Miller Legg Engineering, representing the applicant, Centerline Homes, approached the Board and provided an exhibit including the site plan and some photographs of the area from different views. He reported that his firm was hired after the engineering plans were approved by the City, to re-evaluate the sanitary system, and after the preconstruction meeting they realized that there was a 5 foot bust in the original approved plans. He explained in detail some of the technical issues associated with the subject request, and stated that in order to treat the water in the treatment swale behind the lots it is necessary to increase the width of those swales. He also stated that the plans have been approved by St. John's Water Management District, and the City has recommended approval. Mr. Wright also stated that the variance is minimal, that the developer is using a smaller footprint house model on the subject lots, and that there is a considerable 50 foot right-of-way buffer that backs up to Waterford Pointe Subdivision.

Further discussion took place among the Board Members, Mr. Wright and Assistant City Engineer Kelley concerning issues such as the environmental impacts, the 50 foot right-of-way and landscape buffer, and the possibility and impacts of swimming pools being constructed on the subject lots.

***Motion by Tina Aldrich to approve the Variance for Lots 116 to 126 at Bronson Landing Subdivision. Seconded by Bea Deariso, the motion carried unanimously 7-0.***

### **Annexations & Rezoning**

#### **8. Winter Garden Village at Fowler Groves - PCD Change**

City Planner Cechman stated that on February 6, 2006 the Planning and Zoning Board rejected the request by the applicant to amend the PCD (*Planned Commercial District*) Ordinance, because of concerns with the hours of operation of the home improvement facility. The City Commission also rejected the proposed change; however the applicant has since changed their request and is now seeking approval for the same change in the hours of operation for the health club facility, but has excluded the change for the home improvement facility. Mr. Cechman explained that the proposed ordinance will allow the health clubs to be open from 5:00 a.m. to 11:00 p.m; and adds a Hurricane Exception, which will allow the hours of operation for the home improvement facility to be extended for a period of time in the event that the City may be subject to a Hurricane Watch issued by the National Hurricane Center.

Ed Lynch, 660 Home Grove Drive, Winter Garden (*Regency Oaks Subdivision*), approached the Board and stated that if The Sembler Company is allowed to open the health clubs one hour earlier, the community should get something in return. He

suggested that bars and restaurants should close at 11:00 p.m. which will reduce late night noise.

James Balderrama, 14315 Hampshire Circle, Winter Garden (*Bay Isle Subdivision*), approached the Board and stated that most of the residents on the surrounding areas of the proposed Winter Garden Villages at Fowler Groves are new in Winter Garden, but they chose to live in the City because they like the small town charm. He spoke in opposition to the subject petition stating that The Sembler Company promised them that the hours of operation were going to be limited, and that The Sembler Company should stick to the previously approved plan. Mr. Balderrama also expressed concerns related to large big box stores, noise, traffic, and crime in their neighborhoods.

Rebecca Furman, attorney representing the applicant for the project, approached the Board and expressed sympathy towards Mr. Balderrama's concerns, stating that they listened to the concerns presented by citizens at the February 6, 2006 Planning and Zoning Board meeting. She stated that 5:00 a.m. to 6:00 a.m. is not a peak hour for traffic and the health club activities will not create a lot of noise.

Tina Aldrich pointed out that at the last Planning and Zoning meeting the applicant requested to allow the health club facility to open from 5:00 a.m. to midnight, but they have amended their petition and are requesting at this time that the health club facility be open from 5:00 a.m. until 11:00 p.m.

Colin Sharman asked if the other Sembler projects have similar health club facilities and inquired about their hours of operation.

Tom Hareas, representing The Sembler Company, in response to Mr. Sharman's questions stated that they have the same particular high quality tenant in two other locations and they currently open at 5:00 a.m. Mr. Hareas also stated that there is a high demand for people to work out early in the mornings, before they go to work.

James Balderrama approached the Board and stated that there is a higher demand in their communities for some peace and quiet.

Further discussion followed among the Board Members, City Manager Bollhoefer and the Sembler representatives concerning the Hurricane Watch, and a new hurricane ordinance currently being developed by the City.

Frank Imbruglia, 14015 Hampshire Bay, Winter Garden (*Bay Isle Subdivision*), approached the Board and asked if during the emergency times when the home improvement stores will be open twenty-four hours a day the guidelines for delivery will still be limited. City Manager Bollhoefer responded that during the storms and under state of emergency, deliveries have to be made at any time, since the safety of all residents will be the major concern.

Colin Sharman expressed concerns about how many times the Planning and Zoning Board will be amending the hours of operation at the Sembler's development.

Tom Hareas explained that the subject request is specific because of the particularities of the tenant, and stated that during the last Planning and Zoning Board and City Commission meetings they understood crystal clear how the residents around the development feel about amending the hours of operation.

Colin Sharman inquired about the resident's request concerning the bars and drinking establishments closing at 11:00 p.m. Tom Hareas responded that they do not have an exclusive 100 percent bar operation on the project, but explained that they do have high quality restaurants that have a bar operation. He stated that they did not have a problem with the request as long as it is specific to a 100 percent bar operation.

Board Members and City Manager Bollhoefer further discussed issues concerning the hurricane watch; the current hours of operation for bars and drinking establishments according to City Code; the resident's suggestion to change the hours of operation for bars and drinking establishments at the Sembler development; and the subject request to change the hours of operation for the health club facility and hurricane exception.

Colin Sharman stated that he had some ex parte communication with Mr. Hareas after the last Planning and Zoning meeting concerning the change to the hours of operation for the health club facility and that he told Mr. Hareas that he did not have an issue with such change. Mr. Sharman also stated that earlier today he had an ex parte communication with Mr. Lynch related to the same concerns Mr. Lynch presented today before the Board and also with Mr. Balderrama related to the same concerns he also presented today before the Board.

***Motion by Colin Sharman to have The Sembler Company re-draft the ordinance to require bar and drinking establishments to close at 11:00 p.m. prior to getting approval from the City Commission. Seconded by Minister Snell, the motion failed 5-2; Larry Bedsole, Tina Aldrich, Bea Deariso, Bob Buchanan, and Mac McKinney opposed.***

***Motion by Tina Aldrich to approve Ordinance 06-11 with the amendment to the PCD Ordinance, allowing health clubs to be open from 5:00 a.m. to 11:00 p.m. Seconded by Bea Deariso, the motion carried 5-2; Colin Sharman and Minister Snell opposed.***

## **Site Plans**

### **9. Winter Garden Village at Fowler Groves**

City Planner Cechman presented the Board with a request for site plan approval for the commercial portion of Winter Garden Village at Fowler Groves. He stated that City Staff has been working diligently with The Sembler Company and their consultants on the site plans and recommends approval with the conditions included in the agenda package.

Chairman Bedsole asked if there were any items of concern the Board should be carefully looking at. City Planner Cechman responded negatively and stated that City Staff has intensely reviewed the site plans. He added that there were some traffic issues, which have been addressed by Assistant City Manager Marshall Robertson, and by the City's traffic consultant, HDR. City Manager Bollhoefer pointed out that their primary goal and the most important priority concerning traffic is to make sure that it works for all the citizens in the affected area. He added that over the last two weeks a very intense analysis has taken place, and several changes have been made to ensure that all traffic issues have been addressed.

Colin Sharman inquired about the wall on Country Lakes Subdivision, and stated that he did not see that in the site plans. Tom Hareas stated that they have an agreement with Country Lakes Homeowners Association to construct a decorative masonry wall with landscaping on the side of their subdivision which faces the Sembler's development. Mr. Hareas explained that different plans for the wall will be designed and presented to the Country Lakes Homeowners Association for their approval. City Planner Cechman clarified that because Country Lakes Subdivision is an unincorporated area, the subject wall will need to be permitted and approved by Orange County.

Tina Aldrich asked if The Sembler Company were in agreement with all City Staff conditions, to include the landscaping issues. City Planner Cechman responded affirmatively, and explained that prior to the planting of the landscaping around the buffers, City Staff will perform an inspection to ensure that the intensity and the lay out comply with the landscape plans and also with the City Code.

Colin Sharman inquired about the design of the landscaping inside the development and stated that said landscaping was not illustrated in the site plans. He asked the landscape architect to point out the buffer areas in the plans.

Troy Wanless, of Anderson Lesniak Limited, landscape architect representing the applicant approached the Board and stated that there should be clouded areas in the landscape plans which depict the buffer areas. He displayed a set of landscape plans and pointed out where the buffer areas were. Colin Sharman stated that the plans being displayed by the landscape architect were not the same as the ones provided to the Board and stated that it is difficult for the Board to make a decision if they have not reviewed the appropriate plans.

A discussion followed between Board Members, City Planner Cechman, Senior Planner Randall, and City Manager Bollhoefer concerning the landscape plans and the review performed by City Staff.

Senior Planner Randall explained that two landscape architecture firms worked on the site plans; one of them, Site Solution, completed the internal portion, the Grove and pedestrian walk ways, and the other, Anderson Lesniak, completed the remainder of the project. She explained that the hardscape and irrigation plans from Anderson Lesniak Limited were inadvertently not included in the agenda package, but she assured the Board

that City Staff has reviewed them, and the numbers and sizes of plantings in the buffers are exactly as promised in the PCD.

Bea Deariso stated that City Staff has diligently worked on the subject site plans, and the Board should consider their input.

Colin Sharman asked how many City Staff members have reviewed the subject plans. City Planner Cechman responded that Senior Planner Randall reviewed them, Planner Byers reviewed them, Assistant City Engineer Kelley reviewed the stormwater portion, and Assistant City Manager Robertson reviewed the circulation and road ways. City Planner added that he personally reviewed the site plans and assured the Board that they comply with the PCD.

*Motion by Tina Aldrich to approve the Site Plans for the commercial portion of Winter Garden Village at Fowler Groves with all City Staff conditions (see attached). Seconded by Bob Buchanan, the motion carried 6-1; Colin Sharman opposed.*

*Motion by Colin Sharman to report to the City Commission that the Planning and Zoning Board did not have the opportunity to review the full landscaping plans for the subject project, but City Staff did. Seconded by Tina Aldrich the motion carried unanimously 7-0.*

**Miscellaneous**

City Planner Cechman introduced new Planning and Zoning Department employee, Regina McGruder, Planner II.

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 8:37 p.m.

**APPROVED:**

**ATTEST:**

\_\_\_\_\_  
Chairman Larry Bedsole

\_\_\_\_\_  
Planning Technician Lorena Blankenship