

**A REGULAR MEETING MINUTES
PLANNING AND ZONING BOARD
SEPTEMBER 11, 2006**

CALL TO ORDER

Chairman Larry Bedsole called the regular meeting of the City of Winter Garden Planning and Zoning Board to order at 6:32 p.m. in City Hall Commission Chamber. The invocation was given followed by the Pledge of Allegiance. The roll was called and a quorum was declared present.

PRESENT: Chairman Larry Bedsole, Bea Deariso, Jerry Carris, Mac McKinney and Bob Buchanan. Also present were City Attorney Kurt Ardaman, Assistant to the City Attorney Daniel Langley, City Manager Mike Bollhoefer, City Planner Mark Cechman, Chief Planner Kelly Randall, Planner Regina McGruder, Planner Brandon Byers, Planning Technician Leontyne James and Planning Technician Lorena Blankenship.

ABSENT: Board Members Tina Aldrich and Xerxes Snell

1. APPROVAL OF MINUTES

Approval of minutes from regular meeting held August 17, 2006

Motion by Jerry Carris to approve the above minutes. Seconded by Bob Buchanan, the motion carried unanimously 4-0.

PRESENTATIONS

2. CITY PARKS AND RECREATION DEPARTMENT REQUEST

Jay Conn, Director of City Parks and Recreation Department approached the Board and requested their support concerning two park projects; the redevelopment of Marvin C. Zanders Park, and the development of the Southside Community Park. He stated that some improvements need to be made to the Marvin C. Zanders Park, and also due to heavy traffic in the area, a cul-de-sac needs to be constructed to eliminate the road traveling through the park. Mr. Conn also stated that the Southside Community Park is proposed for development at 4109 Winter Garden Vineland Road, on land currently owned by the City and adjacent to the City Cemetery. Mr. Conn explained that no formal action on these issues is required, but explained that review of such projects by a City's Planning and Zoning Board is advantageous when seeking grant funding.

The Board members expressed their support of the two park projects presented by Recreation Director Jay Conn.

City Manager Mike Bollhoefer stated that the City is aggressively trying to secure some land for additional parks in the south area of the City.

3. 206 N. Woodland Street

Chief Planner Randall requested that the Board postpone the subject presentation until the next Planning and Zoning meeting. She explained that City Staff has some concerns and the developers are not in the audience to discuss the issues.

Motion by Bob Buchanan to postpone the item to the next Planning and Zoning Board meeting. Seconded by Mac McKinney, the motion carried unanimously 4-0.

VariANCES

4. 12206 Oyen Court

Planner Byers presented the Board with a request for 12206 Oyen Court for approval of a 9 foot front yard setback variance that would allow the property owners to build an enclosed garage located on the east side of the property. He explained that the garage will be 21 feet from the front property line and because of the 16 foot drainage easement a variance is required. City Staff has reviewed the application and recommends approval.

Bea Deariso arrived at 6:40 p.m.

Sherry Lutes, 12206 Oyen Court, Winter Garden, approached the Board to answer questions and stated that they do not have adjacent neighbors to the east and that they need the extra space the garage will provide.

Motion by Mac McKinney to approve the 9 foot front yard setback variance. Seconded by Bob Buchanan, the motion carried unanimously 5-0.

5. 627 Clancy Street

Planner McGruder presented the Board with a request for approval of an 8 foot front yard setback variance that would allow the property owners to construct a front porch addition at 627 Clancy Street. City Staff has reviewed the application and recommends approval.

Jerry Carris asked about the size of the proposed porch. Planner McGruder responded that the proposed front porch will be 8 feet wide.

Motion by Jerry Carris to approve the 8 foot front yard setback variance with City Staff conditions (see attached). Seconded by Bea Deariso, the motion carried unanimously 5-0.

6. 1207 E. Story Road – Exotic Car Transport

Planner McGruder presented the Board with a request for approval for 1207 East Story Road of a variance that would allow an automobile storage structure to be within 200 feet of a school. She stated that the subject property was granted the same variance by the Board on April 04, 2005; however, it has since expired. City Staff has reviewed the application and recommends approval.

Motion by Jerry Carris to approve the Variance. Seconded by Bea Deariso, the motion carried unanimously 5-0.

7. Winter Garden Village at Fowler Groves – Noise Variance

City Planner Cechman presented the Board with a request for approval of a noise variance submitted by the Sembler Company and Hardin Construction Company. He explained that the variance would allow certain construction activities (the pouring of concrete slabs) during nighttime hours from 2:00 a.m. to 7:00 a.m. on weekdays, and 2:00 a.m. to 9:00 a.m. on weekends, a total of approximately 75 slab pours between now and April 2007. Mr. Cechman explained that only 12 of the 75 slab pours will be near the existing residences and the rest of them will be further away from the residential area. City Planner Cechman quoted Section 38-165 (e): “... *In deciding whether to grant, grant with conditions or deny the application, the Planning and Zoning Board shall balance the hardship which will result to the applicant, the community, and other persons if the variance is not granted, versus the adverse impact on the health, safety, and general welfare of persons if the variance is granted. If the Planning and Zoning Board determines that the granting of the variance, with or without conditions, will be in harmony with the general intent, purposes and goals of chapter 118 and that the variance will not be unduly injurious to the area involved or otherwise unduly detrimental to the public, the variance shall be granted*”. City Planner Cechman also noted that pouring concrete early in the morning is a common practice in the construction industry and that the applicants are willing to construct the landscape berms along the north property line to reduce the noise impact; however the first 20 pours will occur along the southern property line, adjacent to the Western Beltway. City Staff has reviewed the application and recommends approval

Steve Rivers, Hardin Construction Senior Vice-President, approached the Board and gave a brief background of the company, mentioning some of their projects in the Central Florida area. He stated that early morning pours will promote better public safety, since they will be able to reduce the number of trucks on the road. Mr. Rivers also stated that early morning pours are a common construction practice that ensures that the quality of the concrete slab is not jeopardized by the excessive heat and afternoon rains. He also mentioned that pouring the concrete during early hours will allow them to maximize the amount of each of those 75 concrete pours, which will help to expedite the project, as opposed to doing multiple smaller pours during the day. Mr. Rivers provided the Board with a graphic design of the site identifying the traffic routes for the concrete trucks.

The following Winter Garden residents were present to speak in opposition to the subject petition: Ed Lynch, 660 Home Grove Drive; Dan Gallagher, 12736 Grovehurst Avenue; George Munson, 14028 Lake Tilden Boulevard; David Bradford, 12814 Grovehurst Avenue; Kathy Bollo, 313 Duff Drive; Deborah Eichen, 14217 Country Estate Drive; James Balderrama, 14315 Hampshire Bay Circle; Jennifer Armitage, 12839 Daughtery Drive; Tom Reedy, 14217 Country Estates Drive; Carolyn Rivera, 12802 Grovehurst Avenue; and Christine Cascio, 13543 Glynshell Drive. These residents mentioned concerns related to the noise, the dust, and the lighting, stating that construction work at 2:00 a.m. in a residential area is not acceptable; that the buffers are not enough to block the noise; that the only unreasonable hardship will be on the homeowners; and that the benefits for the applicants are money and convenience. They also stated that other developments have taken place in the area without creating unreasonable hardship for the residents, and that the applicants could complete their construction work during normal operating hours. They stated that they want the completion of the open mall as soon as possible but not at the expense of their early morning hours.

Dean Armitage, 12839 Daughtery Drive, approached the Board and stated that he was not against the overall request, but stated that he was against the timing. He added that perhaps the buffers and berms should be put in place before the concrete pouring, and that perhaps the wall should be higher and more attractive buffers should be provided.

City Manager Bollhoefer stated that one of the purposes of holding public meetings is to give the citizens the opportunity to attend and express their points of view. He stated that City Staff has given the applicants the opportunity to present their petition before the Board and to demonstrate that their hardship overrides the citizens' concerns. He added that City Staff will ensure that The Sembler Company complies with all the rules related to the construction work. Mr. Bollhoefer also noted that the City is trying to find different ways to resolve the problem concerning the dust issue. He added that City Staff is also working on developing a new Noise Ordinance, and that he understands everyone wants to live in peace in their own homes.

Steve Rivers, of Hardin Construction approached the Board and stated that working in the nighttime hours is not a cost-saving benefit but a construction best practice. He explained that the batch concrete plants are not open in the evenings, and they are traditionally set up to open early in the mornings. Mr. Rivers, showing the graphic design of the site, explained the route of trucks, stating that they will come down Highway 429, and that instead of having 60 trucks in a period of 7 hours during the day, they could instead have 60 trucks in a period of 3 hours during nighttime hours. He also stated that they will turn the lighting away from the residential areas, and that the concrete pours will be a temporary situation. Mr. Rivers also stated that they are willing to work out an agreement and come up with some compromises that would be fair for both sides.

Bea Deariso asked Mr. Rivers about the techniques they will be using to minimize the backing up beeping sound of the concrete trucks. Mr. Rivers responded that using the proposed route, the trucks will be mostly circulating in a loop to minimize the amount of times the trucks will have to back up.

Dan Gallagher challenged Mr. Rivers' remarks concerning the concrete batch plants' hours of operation and the procedure to drive the trucks on the proposed route, stating that they should be able to use the same procedure during the day.

Mr. Rivers responded that the batch concrete plants are setup to open early in the mornings, and that because of the heavy traffic during the day, they could not have the trucks lining up and coming in and out continuously. He added that instead of the requested 75 individual concrete pours, they were willing to change their request to 60 individual concrete pours instead, which will be only 60 mornings from now until March.

James Balderrama also challenged Mr. Rivers' remarks concerning the residents' benefits of having the trucks coming in from Highway 429 during the nighttime. He explained the common daily routes the residents in the area use and the peak hours on C.R. 535 and Highway 429, and stated that having the concrete trucks coming in during nighttime hours is not a true benefit for the residents.

Dave Bradford approached the Board and stated that he agreed on trying to reach some compromises. He added that perhaps the landscape berm and the screen should be constructed before any variance is granted. Mr. Bradford asked about the date when the berm and the screen will be installed.

Greed Scoggins, from The Sembler Company responded that the wall will be arriving no later than October 1st, but could arrive as soon as September 18th, and added that the time required to install the wall is approximately 8 weeks. He stated that the real benefit will be the landscaping on top of the berm, which is scheduled to be installed right after the wall. Mr. Scoggins stated that the landscaping will alleviate the problems related to the noise, pollution and dust.

City Manager Bollhoefer asked Mr. Scoggins if the berm, the landscaping, and the wall will be completed between 60 and 90 days. Mr. Scoggins responded affirmatively.

Dean Armitage asked Mr. Scoggins to describe the berm. Mr. Scoggins responded that the berm is 6 foot high and on the property line, in front of the berm there is a 6 foot high pre-cast screen wall, and thick landscape buffer on top of the berm. Mr. Armitage asked if the berm could be 12 feet high instead of 6 feet high and more mature looking vegetation could be used to block the light and the noise.

Ed Lynch approached the Board again and requested the Board to deny the variance request, stating that trying to negotiate a compromise at the meeting was not the right thing to do for the community.

Kathy Bollo approached the Board and expressed concerns about the noise and questioned the possibility of having the applicants come back to the Board with the same request at the time they are ready to pour the concrete on the large parking lots.

Phill Baker, 125 W. Smith Street, approached the Board and pointed out that if the applicant knew that the normal hours to pour concrete were at 2:00 a.m. the residents should have been notified earlier in the process. He also added that even if the 60 trucks circulate on a loop they will be backing up to the concrete pumper using their back-up alarms, which will generate a lot of noise.

City Manager Bollhoefer stated that he made the commitment to several people that City Staff will ensure that The Sembler Company would comply with the rules, and added that the reason City Staff recommended approval to the subject petition is because in the construction industry is very standard that this type of large concrete pour take place during nighttime hours. City Manager Bollhoefer stated that public meetings provide an opportunity for the residents to come and express their concerns. He stated that The Sembler Company did not mention the concrete pouring early hours during the approval process of their PCD (*Planned Commercial Development*), and added that this issue should have been discussed at that time.

Ed Lynch approached the Board and expressed discontent with the process of the subject petition.

Jerry Carris pointed out that the applicant has stated that one the reasons for this variance is to avoid the summer afternoon heat and rainfalls, and stated that the coolest time of the year is just ahead of us for the next five months.

Bob Buchanan stated that he poured concrete for many years and knew that the concrete companies will adjust their schedules on behalf of their clients. He also added that if only one resident is woken up in the middle of the night because of the noise caused by the concrete trucks, that one resident is too many. He expressed disagreement with the subject petition.

Mac McKinney stated that he has been in the construction industry for approximately 40 years and has seen very large concrete pours, but has never seen one operating during the nighttime hours. He expressed opposition to the subject request.

Bea Deariso stated that The Sembler Company has been asking for too many variances, and it is time to say no.

Chairman Bedsole stated that he had not heard anything that constitutes a reasonable hardship on the applicants.

Motion by Jerry Carris to deny the Noise Variance. Seconded by Bob Buchanan the motion carried unanimously 5-0.

Special Exception Permits

8. 213 W Smith Street

Planner McGruder presented the Board with a request for approval of a Special Exception Permit to operate a small construction office at 213 W. Smith Street. City Staff has reviewed the application and recommends approval with the conditions that no outdoor storage of anything will be allowed on site; no parking of construction trucks or construction equipment will be allowed on the site; and that this use is for an office only and that any conversion from a construction office to any other use, to include any other type of office use, will require a new Special Exception Permit. She also added that as the next step the applicant must work with City Staff on an appropriate parking configuration and obtain a small-scale site plan approval.

Lloyd Warren, approached the Board and stated that he owns Dean Homes Inc., a small construction company, and desires to open a small administrative office with only two employees.

Mac McKinney asked if the existing residence is occupied at the present time. Mr. Warren responded affirmatively and explained that the purchase of the parcel is contingent upon the Special Exception Permit, and if approved, the existing house will be converted into an office.

City Manager Bollhoefer explained that if the existing home is demolished, the new office/residence must be built in harmony with the character of the rest of the neighborhood. Mr. Warren stated that he understood those regulations.

Bob Buchanan asked if the covered handicap parking was recently added. Mr. Warren responded negatively and stated that the garage is covered but a new handicap parking space will be created.

City Manager Bollhoefer asked City Planner Cechman to explain how the Special Exception Permit works and if a future property owner will be allowed to operate a similar use in the same lot. City Planner Cechman explained that if after approval of the Special Exception Permit, the applicant sells the parcel; the new owner would be allowed to operate the same or similar type of business with the same limitations. He added that the property is currently zoned R-NC (*Residential Neighborhood Commercial*).

Phill Baker, 125 West Smith Street, approached the Board and spoke in opposition to the subject request, stating that the property is located in a residential and historic neighborhood and a business operation will generate additional traffic.

Dan Raft, 190 S. Highland Avenue, adjacent neighbor to the east, approached the Board and spoke in favor of the subject request stating that two employees would not generate much traffic, and added that when he purchased his property, he was aware of the RNC zoning category in the area.

Kent Makin, 214 Seminole Street, approached the Board and spoke in favor of the subject request stating that when he purchased his home he took into consideration the RNC zoning and understood that the City was in development and that there were going to be

some changes in the area, to include the construction of the new City Hall, which is a similar use to the one the applicant is requesting approval for.

City Manager Bollhoefer stated that in relation to the construction of the new City Hall, the City is planning on preserving almost all the existing live oak trees, and additional landscaping and buffers will be created between the new City Hall and the residences. He added that City Staff's intentions are to ensure that the appearance of all businesses located in R-NC areas fits within the character of the neighborhood.

Motion by Bob Buchanan to approve the Special Exception Permit to allow a small construction office at 213 W. Smith Street with City Staff conditions (see attached). Seconded by Mac McKinney, the motion carried unanimously 5-0.

9. 1319 Green Forest Court – Suite # 401

Planner McGruder presented the Board with a request for a Special Exception Permit to allow for a Children's Indoor Play Activity Center for ages 6 months to 6 years of age at 1319 Green Forest Court, Suite # 401 (*Pavex Industrial Park*). City Staff has reviewed the petition and recommends approval.

Johnna Evans, 329 S. Dillard Street, approached the Board and in response to Chairman Bedsole's question about parking, stated that the busiest time at the center will be on the weekends when they will have approximately 15 vehicles on the parking lot, but at that time most of the surrounding businesses will be closed. She added that during the week they will most likely only have 3 or 4 children.

Further discussion followed among City Planner Cechman and the Board Members concerning the parking spaces and businesses at the industrial park. Mr. Cechman stated that every time a new Occupational License petition for a new business located at that industrial park is submitted, the Planning and Zoning Department will perform a site visit to ensure that the parking is not a problem.

Motion by Bea Deariso to approve the Special Exception Permit to allow a Children's Indoor Play Activity Center for ages 6 months to 6 years of age at 1319 Green Forest Court, Suite # 401 . Seconded by Bob Buchanan, the motion carried unanimously 5-0.

Large-Scale Comprehensive Plan Amendments

10. Sessions OCPS Property

City Planner Cechman stated that the subject item is a transmittal for Ordinance 06-41, amending the Future Land Use Map of the City of Winter Garden's Comprehensive Plan by changing the Future Land Use designation from Orange County Agriculture to City Public Facility and Education. A new middle school will be built at this property known

as the Sessions parcel, approximately 40.9 acres located north of Black Lake and south and west of Siplin Road, and owned by Orange County Public Schools. City Staff recommends approval.

Julie Salvo, with Orange County Public Schools approached the Board and stated that they have the funds to build the middle school and hope to begin operations by 2009.

Bob Buchanan asked if the middle school will be the only school built on the property. Ms. Salvo responded negatively and stated that an elementary school will also be built in the future.

City Manager Bollhoefer noted that the developers for Hickory Hammock did a lot of work on securing the subject site for new schools.

Motion by Bob Buchanan to approve transmittal of Ordinance 06-41, amending the Future Land Use Map of the City of Winter Garden's Comprehensive Plan by changing the Future Land Use designation of the property generally described as 40.9 acres of land located south and west of Siplin Road and East of C.R. 545 from Orange County Agriculture to City Public Facility and Education. Seconded by Jerry Carris, the motion carried unanimously 5-0.

Final Plats

11. The Orchard

Planner Byers presented the Board with a request for approval of a partial replat of the final plat for The Orchard subdivision located on the west side of C.R. 535. This plat was previously approved by the Planning and Zoning Board on May 2, 2005; however, drainage issues required the developer to replat some of the lots. City Staff has reviewed the petition and recommends approval with the conditions included in the agenda package.

Mac McKinney inquired about the lots being replatted. Mr. Byers explained that the lots being replatted are lots 1 through 25 and the lot depth is being increased from 82 feet to 93 feet.

Motion by Bea Deariso to approve the replat of the final plat for The Orchard Subdivision with City Staff conditions (see attached). Seconded by Bob Buchanan the motion carried unanimously 5-0.

12. John's Lake Pointe

City Planner Cechman presented the Board with a request for approval of the John's Lake Pointe final plat located on the west side of C.R. 545. City Staff has reviewed the application and recommends approval with the conditions included in the agenda package. Mr. Cechman explained that there is an environmental issue related to a storage tank for petroleum items which used to be underground, but the developers have removed it and they are doing the right things to mitigate the problem. He added that it is not a health problem, but to ensure the City is protected, the City attorneys are working out some of the final deals, since this area will soon be a City street. City Planner Cechman also stated that a development agreement between the City and the developer shall entered into addressing the cost-share concerning utilities. Prior to being scheduled for the City Commission, the applicant will need to satisfy all City Staff comments and conditions.

Jerry Carris inquired about the wetlands in the property and asked if the appropriate swales were installed. Mr. Byers responded affirmatively.

Motion by Mac McKinney to approve the Final Plat for John's Lake Pointe Subdivision with City Staff conditions (see attached). Secoded by Jerry Carris the motion carried unanimously 5-0.

Site Plans

13. 205 Windermere Road

Chief Planner Randall presented the Board with a request for the site plan approval for SouthWest Aquatics facility to be located at 205 Windermere Road. She added that this project was granted a Special Exception Permit by the Planning and Zoning Board on November 07, 2005. Ms. Randall also stated that there are some technical issues that need to be resolved prior to City Commission approval.

Mac McKinney asked about the time frame after a Special Exception Permit is granted. Ms. Randall responded that Special Exception Permits are good for a year.

Motion by Bob Buchanan to approve the Site Plan for 205 Windermere Road with City Staff conditions (see attached), to include the ones to be met prior to City Commission approval. Secoded by Bea Deariso the motion carried 5-0.

14. Baer Furniture

City Planner Cechman presented the Board with a request for a site plan for Baer Furniture located at 12105 W. Colonial Drive for an 80,950 square feet furniture store and an additional 20,600 square feet of general retail. Because of concerns related to large traffic generators on S.R. 50, City Staff has requested the applicant phase the

project and submit the application for the furniture store at this time and move ahead with the second phase, which is the general retail, at a later date. City Staff has reviewed the application and recommends approval.

Motion by Bea Deariso to approve the Site Plan for Baer Furniture Phase I with City Staff conditions (see attached). Seconded by Bob Buchanan the motion carried unanimously 5-0.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:32 p.m.

APPROVED:

ATTEST:

Chairman Larry Bedsole

Planning Technician Lorena Blankenship