

**A REGULAR MEETING MINUTES  
PLANNING AND ZONING BOARD  
JUNE 06, 2011**

**CALL TO ORDER**

Chairman Jerry Carris called the meeting of the City of Winter Garden Planning and Zoning Board to order at 6:30 p.m. in the City Hall Commission Chambers. The invocation was given followed by the Pledge of Allegiance. The roll was called and a quorum was declared present.

**MEMBERS PRESENT:** Chairman Jerry Carris, Vice-Chairman James Gentry, Board Members: Mark Maciel, Kent Horsley, Mac McKinney, James Dunn, and Rohan Ramlackhan.

**STAFF PRESENT:** City Manager Mike Bollhoefer, City Attorney Giffin Chumley, Planning & Zoning Director Tim Wilson, Principal Planner Bill Wharton, and Planning Technician Lorena Blankenship.

**1. APPROVAL OF MINUTES**

Approval of minutes from regular meeting held May 02, 2011.

*The above minutes were approved by acclamation.*

**Special Exception Permit**

**2. 855 E. Plant Street, West Orange Montessori Charter School**

Principal Planner Wharton presented the Board with a request for approval of a Special Exception Permit to allow a private school in a PCD zoning district. The subject property was assigned the Planned Commercial Development (PCD) zoning designation in November of 2002 as the Courtlea Commercial Center. The PCD requires all development to comply with the general zoning requirements of the C-1 (Central Commercial District) zoning designation. The Trailside Center (formally Courtlea Commercial Center) was developed under these requirements. The PCD also requires that the permitted and special exception uses allowed on the subject property are to be the same as those allowed in the C-1 zoning district. The C-1

zoning designation does not list “schools” as a permitted use or a use allowed by special exception, however, under the special exception uses of the C-1 zoning designation, Section 118-534(5) states: “Other uses which the planning and zoning board determines as the type and intensity of activity desired in the C-1 district”. Mr. Wharton added that the School will start occupying two suites the first year and will expand as needed. The school plans to enroll kindergarten through 2<sup>nd</sup> grade for a total of 108 students for the school year 2011/2012, and then add a grade each successive year to eventually serve grades kindergarten through 8<sup>th</sup> grade for a total potential maximum enrollment of 345 students. The school proposes to provide an outdoor recreational area in the area previously approved for outdoor seating for the (now closed) restaurant in the southeast corner of the property. Mr. Wharton also stated that the proposed use is compatible with the surrounding residential and non-residential uses that would be complementary to the school use, and the Orange County Library located immediately to the west of the property. Principal Planner Wharton explained more details in regards to the site/building conditions, the parking spaces, drop-off/pickup queue, the current traffic conditions, and the future improvements to East Plant Street. Staff recommends the Board determine that a school use is an activity desired in accordance with Section 118-534(5) of the City Code of Ordinances and approve the Special Exception Permit to allow a school use in accordance with the PCD zoning at the subject site with the following conditions:

1. The School shall cause a traffic study to be prepared prior to the third year of operations of the school to determine the forecasted operational conditions of the East Plant Street/Perkins Street intersection. The study will look at each successive year a new grade is added up to the inclusion of the 8<sup>th</sup> grade. If the study projects adverse conditions for the intersection, the study shall recommend mitigation strategies to alleviate the condition. In consultation with the School, the City will determine which mitigation strategies will be required. The methodology for the study shall be approved by City Staff prior to initiation of the study.
2. The maximum number of students shall be 345. Any proposed increase in student enrollment will require a public hearing before, and approval by the Planning and Zoning Board.
3. This approval does not include an approval to expand the outdoor recreation area into the parking lot. Any expansion of the outdoor recreation area into the existing parking area shall require the approval of the Planning and Zoning Director.
4. Additional landscaping or screening of the outdoor recreation area and associated equipment is required to offset the visual impact from Plant Street. A specific plan is to be submitted to, and approved by, the City prior to the installation of the outdoor recreation area, fence, equipment, and landscaping.
5. All local, state, and federal regulations for this use shall be met by the applicant.

6. This Special Exception Permit is specific to this location and the West Orange Montessori Charter School, LLC.
7. All signage for the school shall abide by the PCD and Code requirements.
8. Due to the limited space for outdoor recreation for the School, the School shall continue to work with the City to provide a solution to the outdoor recreation area deficit to accommodate the students added each school year.

Board Member Kent Horsley manifested concerns in regards to several issues such as: intensity of the proposed use, playground is not been provided, fencing or buffer not designated off East Plant Street, fencing next to retention area to the east of the building, the existing location of the garbage dumpsters, and the already congested traffic in the intersection of E. Plant Street and 9<sup>th</sup> Street. Mr. Horsley alleged that the proposed site is not safe or adequate for a school, and that the proposed use is not compatible with the surrounding uses.

Intensive discussion took place among the Board Members, City Manager Bollhoefer, City Attorney Chumley, and Planners Wilson and Wharton regarding the proposed use, the proposed site, the safety issues, and the petition for Special Exception Permit presented before the Planning and Zoning Board. They discussed conditions to impose as part of the approval. City attorney Chumley explained that the responsibility of the Board is to ensure that the use is comparable within the existing zoning and if necessary to make changes and place conditions.

Mary-Catherine Segota, 1631 Chandelle Lane, Winter Garden, approached the Board and stated that she is the Governing Board President of the West Orange Montessori Charter School. She provided background information and details regarding charter schools concept and operations. She stated that they strongly believe in safety and that they are willing to take the necessary steps to provide safety and security to the students. Ms. Segota also stated that they are almost at complete enrollment, that they have a waiting list for kindergarten, and that they are regulated by Orange County Public School Board's deadlines. She added that if their petition is not granted tonight, they will not be able to open in August.

Thomas Palmer, 404 Mary Ellen Court, Winter Garden, approached the Board and stated that he is the Facilities Committee Chairman. He spoke in favor of the subject petition.

***Motion by James Gentry to approve the Special Exception Permit to allow the West Orange Montessori Charter School in a PCD zoning district (855 E. Plant Street) with City Staff conditions (see attached) and the additional conditions:***

- 1. Any outside play area is to be fenced prior to use.***
- 2. Installation of the required buffer between the right-of-way and the southeast corner of the lot; to include the removal of the paver bricks and installation of landscape materials.***
- 3. The Special Exception Permit shall expire in two years; the applicant may apply for an extension at that time.***

4. *The Traffic Study is required after the second year of operations and shall include internal circulation on the site.*
5. *A fence shall be installed between the building and retention pond prior to the start of operations of the school.*

*Seconded by James Gentry, the motion carried 6-1-0, Kent Horsley opposed.*

## **Ordinances**

### **2. Ordinance 11-14 – addressing Pawn Shops, Firearm Sales, Firearm Assembly and Manufacturing including Ammunition and Gun Ranges**

Planning and Zoning Director Wilson presented the Board with a request to recommend approval to Ordinance 11-14, addressing Pawn Shops, Firearm Sales, Firearm Assembly and Manufacturing including Ammunition and Gun Ranges. Mr. Wilson explained that the City has recently been presented with several use requests for pawnshops, firearm sales and similar uses which currently are not listed in the City's zoning districts. An ordinance has been drafted that would clarify these uses and locations in the appropriate zoning districts. Ordinance 11-14 identifies the zoning districts where these types of uses would be permitted or prohibited.

Karen Consalo, 836 North Highland Avenue, Orlando, approached the Board and stated that she is an attorney representing John Sullivan, who owns Beverly Hills Jewelry Watch and Loan. She voiced concerns in regards to Ordinance 11-14, arguing that the language on said ordinance does not provide clearly defined objective standards for uses such as Pawn Shops. Ms. Consalo added that if the subject ordinance is approved, her client, Mr. Sullivan will be required to apply for a Special Exception Permit, and he has no knowledge of the standards with which he will be required to comply. She suggested that the City include in the ordinance the conditions for the Special Exception Permit on Pawn Shops, as well as other allowable uses under such criteria. She urged the Board to analyze the ordinance before being presented to the City Commission.

Further discussion took place among Attorney Consalo, City Attorney Chumley and City Manager Bollhoefer in regards to Ordinance 11-14 and the Especial Exception criteria contained in the Winter Garden Code of Ordinances.

John Sullivan, 14289 Country Estates Drive, Winter Garden, approached the Board and stated that he owns the building located at 12348 W. Colonial Drive, Winter Garden. He reported that before he purchased the property he contacted the City's Planning Department to ensure that the building could be use for his intended purpose. He complained that after receiving approval for his proposed use, City staff is now delaying approval of his Local Business Tax application. City Manager Bollhoefer assured Mr. Sullivan he will contact him the next morning to discuss the circumstances regarding his application.

In response to Kent Horsley's question, Mr. Sullivan stated that he is making major renovations to the building at 12348 W. Colonial Drive, where he intends to operate a jewelry store, Beverly Hills Jewelry Watch and Loan, which will sell new and used merchandise. He added that he is relocating his business from the Florida Mall.

The Board Members, City Manager Bollhoefer, and City Attorney Chumley further discussed the uses and zoning districts included in the proposed ordinance. They also discussed the position and duties of the Planning and Zoning Board with respect to the subject petition.

***Motion by Mac McKinney to recommend approval of Ordinance 11-14, amending the City Code of Ordinances to address Pawn Shops, Firearm Sales, Firearm Assembly and Manufacturing, and Indoor Gun Ranges; to include Pawn Shops as a permitted use in C-2 and C-3 zoning districts. Seconded by James Gentry, the motion carried unanimously 7-0.***

### **3. Ordinance 11-13 – addressing fence requirements**

City Manager Bollhoefer reported that Ordinance 11-13 amending the City Code of Ordinances to address the placement and height of fences, walls and swimming pool enclosures. Issues have come up relating to the permitted location of fences and walls in relation to the property line. The proposed changes to the Code update the City requirement regarding the location of a fence or wall and swimming pool enclosure. One of the main revisions to the fence or screen wall requirements is to allow the placement of the fence or wall on or immediately adjacent to the property line with a more detailed scaled drawing. The current requirement is that the fence or wall be placed six inches inside of the property line or on the property line only when consent is obtained from the adjacent property owner. This has created several problems for strips of land outside the fence or wall that needs to be maintained and in some instances the installation of a second fence that would not be needed. The second modification to fence and wall requirements is regarding the maximum height of a rear yard fence or wall. When residential property is adjacent to commercial or industrial property and is not screened from the residential property, a City staff evaluation will occur to determine if other alternatives are needed to provide the necessary screening. Other revisions include addressing the placement of pool enclosures, prohibiting permanent structures (such as concrete pool decks) in utility easements and addressing maintenance responsibility.

Mac McKinney expressed concerns in regards to Section 118-1297 (b) (2), the enclosure of swimming pools. City Manager Bollhoefer stated that City Staff will review such section of the proposed ordinance before the item is presented to the City Commission.

***Motion by James Dunn to recommend approval of Ordinance 11-13, amending the City Code of Ordinances to address the placement and height of fences, walls and***

*swimming pool enclosures; adding the paragraph: “all gates and doors opening through such enclosure shall be equipped with a self closing and self latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped”. Seconded by James Gentry the motion carried unanimously 7-0.*

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 8:15 p.m.

**APPROVED:**

**ATTEST:**

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**Chairman Jerry Carris**

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**Planning Technician Lorena Blankenship**