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**PLANNING & ZONING BOARD**

To: Jerry Carris- Chairman  
James Gentry – Vice-Chairman  
James Dunn  
Kent Horsley  
Mark Maciel  
Mac McKinney  
Rohan Ramlackhan

Copy to: Mike Bollhoefer  
Dan Langley  
Ed Williams  
Tim Wilson  
Laura Smith

RE: Agenda – August 01, 2011 - 6:30 PM  
Commission Chambers, City Hall  
300 West Plant Street, Winter Garden

- 
1. Call to Order
  2. Roll Call and Determination of Quorum
  3. Approval of minutes from the July 11, 2011 meeting – Attachment 1

**VariANCES (Public Hearing)**

4. 423 N. Main Street, Accessory Structure Setback Variance - Attachment 2

**SPECIAL EXCEPTION PERMIT (Public Hearing)**

5. 12801 W. Colonial Drive – Attachment 3

**ADJOURN** to a regular Planning and Zoning Board meeting on Monday, September 12, 2011 at 6:30 p.m. in City Hall Commission Chambers, 300 W. Plant Street, 1<sup>st</sup> floor.

Note: §286.0105, Florida Statutes, states that if a person decides to appeal any decision by a board, agency, or commission with respect to any matter considered at a meeting or hearing, he or she will need a record of the proceedings and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act (ADA), if any person with a disability, as defined by the ADA, needs special accommodation to participate in this proceeding, then not later than two business days prior to the proceeding, he or she should contact the City Clerk's Office at 407-656-4111 extension 2254.



the proposed shed on the subject property to be placed between the large Maple tree and the rear fence accommodating the minimum side yard setback of 10' however requiring a variance to the rear yard setback requirement to allow for a 3' rear yard setback; (2) adjust the placement of the proposed shed as previously outlined and modify the proposed shed dimensions from 14' X 28' to 12' X 30' which could accommodate the 10' minimum side yard setback requirement and maintain the 5' rear yard setback initially proposed by the property owner.

### **Code Reference**

Section 118-1310 of the City Code of Ordinances addresses accessory buildings and accessory structures. Sub-section (a) states in part, "an accessory building greater than 160 square feet must comply with all the setback requirements of the principal structure."

Section 118-308 of the City Code of Ordinances addresses minimum yard requirements in the R-1 single-family residential district, and states in part, "in the R-1 single-family residential district, the minimum yard requirements are as follows:

- (1) *Single-family.*
  - a. Front: 30 feet
  - b. Side: ten feet each
  - c. Rear: 20 percent of depth of lot.

The Applicant is seeking a variance to the minimum side yard and rear yard setback requirements for the proposed shed.

### **Code Requirements/Criteria:**

Section 118-131 of the City Code that relates to the review criteria states that, "A variance may be granted from land development regulations by the planning and zoning board if the planning and zoning board concludes that literal enforcement of the provisions of land development regulations would result in either practical difficulties (for setback and parking provisions) or unnecessary hardships (for all other land development regulations) for the property at issue." The code also lists the following criteria that are to be addressed before a variance can be approved. Underlined text is Staff's comments concerning this particular petition.

(a) *Granting the variance will not cause or allow interference with the reasonable enjoyment of adjacent or nearby property owners or negatively impact the standard of living of the citizens of the city;*

Placement of the proposed shed 5' from the rear property line is not out of character with other accessory structures in the area, adjacent property owners should not be negatively affected by granting of this variance. However, placement of the proposed shed 2' from the side property line is not consistent with the placement of other accessory structures in the area, adjacent property owners could be negatively affected by granting this variance.

(b) *The variance will allow a reasonable use of the property, which use is not out of character with other properties in the same zoning category;*

The requested variance allowing 5' rear setback in lieu of 10' for an accessory structure is reasonable use of the property, the request is not out of character with other structures in the R-1 residential zoning districts. However, the requested variance allowing 2' side setback in lieu of 26' for an accessory structure is not reasonable use of the property, the request is out of character with other structures in the R-1 residential zoning districts.

*(c) In the context presented, strict compliance with the land development regulation will not further any legitimate city objective or the benefits that would be achieved under the other variance criteria by the granting of the variance outweigh the benefits under this criteria if the variance were denied;*

Strict compliance with the City's land development regulations will not further any legitimate City objective. This request does not encroach into any recorded easement and does not exceed the maximum impervious surface ratio for residential zoning.

*(d) The granting of the variance is consistent with the city's comprehensive plan; and*  
The variance is consistent with the provisions of the City's Comprehensive Plan relating to single family residential neighborhood character.

*(e) The variance requested is the minimum variance that will make reasonable use of the land, building, or structure or the benefits that would be achieved under the other variance criteria by the granting of the variance outweigh the benefits under these criteria if the variance were denied.*

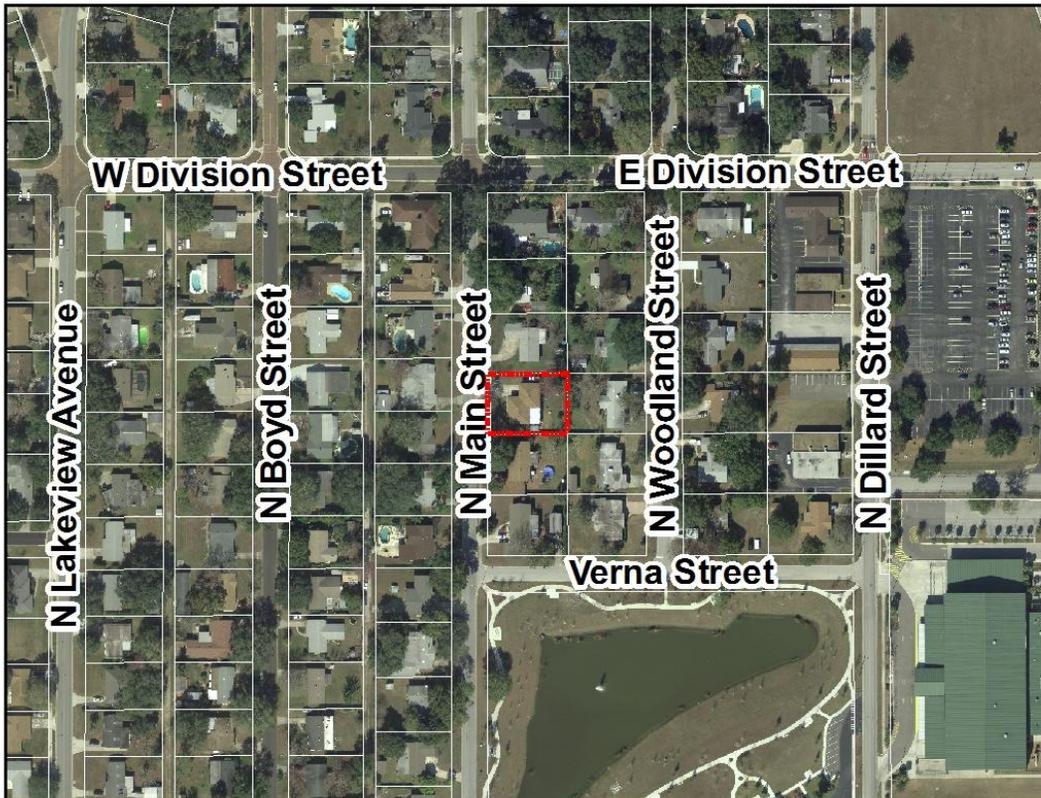
The variance requested is not the minimum variance that will make reasonable use of the land, the proposed shed could be positioned on the property to require variance from rear setback requirements only. Denying this variance does not benefit the property owner or the City.

**STAFF RECOMMENDATION:**

Staff recommend approval of a variance to Section 118-308(1)c of the City Code of Ordinances in the amount of 23' to allow the construction of a 392 square foot shed with a rear yard setback of not less than 3' in lieu of the 26' (20% of depth of lot) requirement, and further recommend that the property owner adjust the placement of the proposed shed to meet the 10' side yard setback requirement. In the event that the property owner opts to adjust the placement of the proposed shed to be setback 3' from the rear property line then the variance request will require re-advertisement, in the event that the property owner opts to adjust the placement of the proposed shed and modify the dimensions of the proposed shed to be setback 5' from the rear property line then the variance request has been sufficiently advertised.

**Next Step:** Apply for appropriate building permit or amend variance request for re-advertising and reconsideration by the Planning and Zoning Board at a future meeting.

**423 N Main Street**



**THE CITY OF WINTER GARDEN**  
**CITY PLANNING AND ZONING BOARD AGENDA ITEM**

**ATTACHMENT 3 (Public Hearing)**

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**Date:** July 27, 2011

**Meeting Date:** August 1, 2011

**Subject:** 12801 W. Colonial Drive      **SEP for Truck Parking in C-2 zoning District**  
Sigma Delta Investments d/b/a Fire Wheel Plaza

**Issue:** The applicant is requesting to re-establish truck parking on the property located at 12801 W. Colonial Drive. The property is approximately three (3) acres in size. The property has several uses and structures located on the site:

- a) One (1) convenience store with gasoline service station use
- b) One (1) restaurant/cafe (separate building - located on the east side of the property)
- c) One (1) vacant storage building (previously used for truck repairs)

**Supplemental Material/Analysis:**

**Owner/Applicant:** Sigma Delta Investments d/b/a Fire Wheel Plaza  
Elied Sousa, Senior Manager

**Zoning:** C-2 (Truck parking is allowed as a Special Exception per section 118-579(6))

**FLU:** Commercial

**Summary:**

**Property History**

1. The property was annexed into the City in 1990 (Ordinance 90-119). The property has been used as a convenience store/gas station with an accessory use for truck parking (trucks, box truck parking). The convenience store/gasoline service station closed in October 2009 according to City records. The prior owner, Road Runner Travel Plaza, LLC, was foreclosed by the lender for the property. The property was recently purchased in May 2011 by the current Owner/Applicant.
2. The original site was developed in 1970 as a gas station/convenience store/truck stop. When the property was annexed into the City in 1990, the property operated under the name of ***Southern Pride Truck Stop***. The restaurant was constructed later in 1986. There has been several owners under different business names since the property was annexed, with the same uses.
3. The truck stop was not specifically allowed in the C-2 zoning at the time of annexation, but C-2 zoning is the predominant zoning in the West Colonial Drive corridor and was the zoning designated for the property. A truck stop use and overnight truck parking were not permitted uses in C-2 zoning. However, since the uses were in existence at the time of the annexation,

- they were considered to be non-conforming uses. The convenience store and gasoline use are permitted in the zoning as well as the restaurant use.
4. In 1999, the City amended the C-2 zoning to allow long term truck parking (over five (5) hours in duration) as well as overnight parking by special exception.
  5. In 2000, site improvements were proposed for additional landscaping and modification to the driveway access to West Colonial Drive. Only the driveway access changes on West Colonial Drive were installed.
  6. The City has adopted and recently amended the WSR50 Overlay District. This overlay outlines a wide range of site, landscaping and building improvements that are required under various development conditions. City staff has reviewed the overlay requirements and has determined that landscape buffers should be installed on the east and west property boundaries where the truck parking area will occur. Other site improvements in the front part of the property will be necessary if building additions or other significant improvement occur.
  7. The convenience store/gas station intends to operate from 5:00 am to 10:00 pm seven days a week. The truck parking would be monitored after hours and with on-site security in accordance with their application.  
*NOTE: In October 2009 the convenience store/gas station closed. The truck parking continued without appropriate approval by the City. The police department has responded to various crimes including, burglary and vandalism. A summary of the crimes will be provided at the P & Z meeting. This was prominently due to inadequate security, lighting and no on-site management of the property.*
  8. The truck parking use was a non-conforming use to the C-2 zoning. Since the convenience store/gas station closed in October 2009. In accordance with section 118-204(2), if a use is discontinued for more than six months, the use may be re-established subject to compliance with all regulations in the zoning district.
  9. The current owner/applicant purchased the property in early May 2011. According to discussion with the owner/applicant and their representative, the lender represented that the property was zoning compliant. The lender never inquired with the City and the City has not provided a zoning letter. We did provide a letter to the prior Owner, Road Runner Travel Plaza, LLC on the necessity to obtain a special exception for truck parking on the site. A response or application was never filed with the City by the prior owner.
  10. There is a storage building to the rear of the convenience store that in the past was used as a truck workshop for minor repairs. The building recently has been used as a storage building and support parking of several business vehicles. The building does not meet building or life safety code requirements and needs to be substantially renovated or demolished.
  11. The City informed the current owner/applicant in May 2011 on the need to apply for a special exception permit for the extended truck parking or to evaluate alternative uses in the rear portion of the property.
  12. City staff has taken numerous pictures of the site and will be provided with the presentation at the public hearing.

### **Adjacent Land Use and Zoning**

The subject property is located on the north side of West Colonial Drive. The surrounding properties have a variety of commercial and other land uses. The

zoning is C-2 (City) to the east and C-2 (County) to the north and west. I-1 zoning is located on the south side of West Colonial Drive. Surrounding uses are a nursing care facility on the east, vehicle storage (junk yard) to the north, vehicle storage to the west in conjunction with a towing company and light industrial to the south.

### **Issues with Request**

1. Truck access to WSR50 with six lane improvements.
2. The need for on-site security and fencing to prevent crimes.
3. Best use of back portion of the property.
4. Debris and maintenance of back portion of site (piled tires, landscape debris, improperly maintained retention pond).
5. Demolition of non-maintained storage building (1,000 +/- sq. ft.).
6. Determination of amount of truck parking for back portion of property.
7. Need to update property improvements (pavement, landscaping, lighting and stormwater retention pond).
8. How truck parking supports gasoline/diesel dispensing users.

### **Analysis**

1. City staff cannot support the application as submitted. The applicant has presented a conceptual site plan that illustrates seventeen (17) tractor trailer parking spaces and seven (7) small truck spaces for a total of twenty-four (24) truck parking spaces. (plan attached)
2. The applicant does not intend to add additional pavement for the seventeen (17) tractor trailer parking. Given the frequency of the use of the spaces, the location in a C-2 zoning, and the location in the WSR50 overlay district, the parking spaces need to be paved. Per section 118-1387h(3).
3. No specific parking area lighting plan has been provided. Parking areas shall include parking lot lighting per 118-1537 of the City Code. Lighting style shall meet the dark skies lighting design.
4. The applicant has made general statements of a safe environment with surveillance but no specifics have been provided (i.e., on-site security, cameras, etc...).
5. If the request is approved for truck parking the following items need to be corrected:
  - a. Demolition of storage building that is in dire repair and offers no benefit to the reuse and re-establishment of truck parking.
  - b. Removal of tires and other landscape debris.
  - c. Pond inlet and pipe need ongoing maintenance.
6. Lighting, landscaping, paving, and striping improvements need to be made before reuse of any parking is allowed. With the installation of additional pavement, the drainage design for the retention pond will need to be addressed and modified. All on-site security improvements will need to be in place before the use of overnight truck parking is allowed.

### **Staff Recommendation:**

The application as submitted should not be approved and is not recommended.

The request for truck parking should only be considered under the following conditions and requirements:

1. Pave additional parking for tractor trailer parking.
2. Provide detailed parking lot lighting in accordance with City code.
3. Install both trees and shrubs on west, north and east side of the parking area per section 118-1524 table 3.4.2 (WSR50 Overlay District - 10 foot landscape buffer).
4. Remove tire and landscape debris.
5. Demolition of storage building.
6. Submit a more detailed site plan for pavement, landscape, lighting and drainage modification to retention pond to City staff.
7. Submit a more detailed on-site security plan for security. To provide a secure parking area for truck operations, no guests, visitors or pedestrians will be allowed in the parking area.
8. On-site registry of vehicle parking will be necessary. No trucks are authorized to be stored after the convenience store/office is closed.
9. No overnight sleeping in trucks or vehicles. A list of restrictions will be posted on-site for prohibited activities.
10. Maximum number of trucks or vehicles to be stored is seventeen (17) tractor trailers and seven (7) small truck parking.
11. The use of truck parking storage shall only be permitted in conjunction with the operation of the convenience store/gasoline station. If the convenience store /gasoline station is closed the truck parking shall be discontinued.
12. Any business signs for truck storage shall be part of the project sign for the convenience store/gas station.

**Attachments:**

Conceptual Site Plan  
Special Exception Criteria

**12801 W. Colonial Drive**  
**Location Map**



Subject Property

**12801 W. Colonial Drive**  
**Aerial Map**









# City of Winter Garden Excerpt from Code of Ordinances

## DIVISION 3. SPECIAL EXCEPTIONS

### **Sec. 118-96. Authority to grant.**

Special exception uses may be permitted in those zoning districts where designated by this chapter, but only when specifically approved by the planning and zoning board in accordance with this chapter. All special exception uses shall be subject to this division, unless otherwise stated in this chapter.

### **Sec. 118-97. Use requirements.**

(a) Any special exception use shall be permitted as specified in individual zoning district regulations, when such use is compatible to surrounding uses, will not create traffic hazards or parking problems, or does not deviate from the terms of this chapter. All special exceptions shall be subject to site plan review by the planning and zoning board. This procedure requires submission of a development plan which sets forth specific land use, circulation and access, building arrangement and overall site layout. The planning and zoning board may require conditions such as performance standards, screening or landscaping as well as time limitations or other similar requirements. Specifically, the planning and zoning board is authorized to require, as a condition of granting a special exception, provision for cross access corridors and joint use driveways pursuant to section 110-206 of this Code, regardless of whether the subject property qualifies as a subdivision pursuant to section 110-1 of this Code.

(b) All special exception uses shall be subject to the following:

- (1) *Uses.* The premises of a special exception use shall be used for only those buildings and uses and accessory buildings and uses specifically indicated by the planning and zoning board in its approval of the special exception use.
- (2) *Compatibility.* The tract of land must be suitable for the type of special exception use proposed by virtue of its location, shape, topography and the nature of surrounding development.
- (3) *Standards.* Required standards and regulations for special exception uses and buildings are as follows:
  - a. All special exception uses shall be subject to the general regulations for structures and uses, lots and yards and vehicles contained in this chapter for principal buildings and single lot development as well as the specific dimension and area regulations for lots and structures in the specific zoning district in which the special exception use is proposed, unless otherwise specifically indicated. Then the special exception use shall be subject to the indicated requirements.
  - b. Minimum lot frontage on a street shall be sufficient to permit properly spaced and located access points designed to serve the type of special exception use proposed. Wider spacing between access points and intersecting street right-of-way lines shall be required when the lot has more than the minimum required frontage on a street. All access points shall be specifically approved by the planning and zoning board.
  - c. All buildings shall be located an adequate distance from all property lines and street right-of-way lines. Greater building setback lines shall be required when the lot has more than the minimum lot area or when deemed necessary to protect surrounding properties.
  - d. A separation strip of at least five feet shall be provided along all property lines, excluding rights-of-way. The planning and zoning board may increase the required separation strip if deemed necessary because of the nature and

intensity of the use. The separation strip shall be developed as a buffer zone in accordance with the requirements of section 118-1299.

- (4) *Site plan required.* The planning and zoning board shall require the submission of a site plan showing the appropriate and applicable data and information set forth in this subsection when an applicant submits a request for a special exception use permit application. The following data and information shall be shown on all site plans as appropriate and applicable to the type and nature of the project and land for which the site plan is being prepared. The site plan shall be drawn at a scale of 200 feet to one inch or larger and shall show the following:
- a. Name of the project, if appropriate.
  - b. Names and addresses of the owner, adjacent property owners, and, if appropriate, the contractor, planner, architect, engineer or surveyor.
  - c. Date, approximate north arrow and graphic scale.
  - d. Area of land within the project.
  - e. Boundary lines and dimensions.
  - f. Any existing or proposed easements and locations, widths and distances, if appropriate.
  - g. Streets on and adjacent to the project and their names and right-of-way widths.
  - h. Buildings, both existing and proposed.
  - i. Parking areas with arrangement and number of spaces.
  - j. Proposed access points to public streets.
  - k. Setback lines and separation strips.
  - l. The planning and zoning board shall require the following if, because of the size and scale of the project, such as a planned-unit-type development, the board deems it necessary:
    1. Name of the contractor, planner, architect, engineer or surveyor.
    2. Contours at an interval of not greater than five feet or at a lesser interval if deemed necessary by the planning and zoning board.
    3. Boundary lines and their bearings, lot lines and their dimensions.
    4. General land use activity areas.
    5. Utilities on or adjacent to the project showing proposed dimensions and connections to existing systems.
    6. Access roads, internal and external, and relationships to existing and proposed streets, alleys and other public ways.
    7. Permanent open spaces, recreation areas and landscape areas.
    8. Sites and their acreages, if any, to be reserved and dedicated for public parks, playgrounds, schools or other public uses.
- (5) *Construction permit required.* The administrative official shall not issue a zoning permit for an approved special exception use until the applicant presents a valid construction permit from the state department of health as required.

**Sec. 118-98. Specified zoning districts.**

Other special exception uses may be approved in only those zoning districts where they are designated as special exception uses under this chapter.

**Sec. 118-99. Application for special exception use permit.**

In applying for a special exception use permit, other than a planned development project, the applicant shall submit an application for a special exception use permit signed by the property owner, along with two copies of a preliminary special exception use site plan showing all of the appropriate and applicable data and information required in sections 118-96 and 118-97 to the city manager. All fees for special exception permits shall be established in chapter 88 of this Code.

**Sec. 118-100. Action on special exception use permit application.**

Upon receipt of the special exception use permit application as provided in section 118-99, the director of planning shall fix a reasonable time for the planning and zoning board hearing of the application, giving public notice thereof, as well as due notice to the parties in interest. Any party may appear in person or by agent or by attorney at the hearing. The planning and zoning board, after receiving a written recommendation from the city manager and after holding a hearing, shall approve, disapprove, or approve subject to modifications or conditions the special exception use permit application and accompanying preliminary plat. If the planning and zoning board approves the application, it may attach any necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature to ensure that there shall be no departure from the intent of this chapter. The planning and zoning board shall especially consider the effect of the special exception use on surrounding uses in determining whether a special exception use shall be approved, modified or disapproved. If the special exception use permit and accompanying preliminary plat is approved, the planning and zoning board shall express its approval as conditional approval and shall state the conditions of such approval, if any, or, if disapproved, shall express its disapproval and its reasons therefor. If an application is disapproved, reasons for such disapproval shall be stated in writing on the records of the planning and zoning board, and a statement in writing of such grounds of disapproval shall be furnished to the applicant or his agent. If approved subject to modifications or conditions, the nature of the required modifications or conditions shall also be indicated in writing on the records of the planning and zoning board and furnished to the applicant or his agent.

**Sec. 118-101. Required notice.**

Under this division, the director of planning shall fix the date for the hearing of a special exception use permit application and shall cause a notice of the time, place and purpose of such hearing to be published at least one time in a newspaper of general circulation in the area at least five days prior to the hearing. In addition, the director of planning shall mail similar notices setting forth the time, place and purposes of the hearing to the parties in interest. The director of planning shall also mail such notices to the owners of every parcel of land within a distance of 300 feet in any direction from the property line of the land in question. Such notices shall be mailed to the owner's current address of record maintained by the assessor of taxes for the city commission and shall be postmarked no later than five days prior to the scheduled hearing date. The director of planning shall present an affidavit certifying that he has complied with the notice requirements of this section, along with a list of the persons and addresses to which notices were mailed, at the time of the hearing of the special exception use permit application. The applicant for a special exception use permit shall pay all costs and expenses in connection with public notice of such hearings and related notices in accordance with this chapter, in addition to the fees required for planning and zoning board review and administration.

**Sec. 118-102. Time limit.**

Any special exception granted by the planning and zoning board under this division shall expire 365 days after the effective date of such action unless the provisions of the special exception are adhered to within such 365-day period. However, upon application, the planning and zoning board may renew such special exception for one additional period of 365 days, provided good cause is shown, and the application for extension shall be filed with the planning and zoning board at least two weeks prior to the expiration of the 365-day period.