WINTER GARDEN

A REGULAR MEETING MINUTES
PLANNING AND ZONING BOARD
OCTOBER 7, 2013

1. CALL TO ORDER/INVOCATION/PLEDGE OF ALLEGIANCE

Chairman James Gentry 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.

2. ROLL CALL AND DETERMINATION OF QUORUM

The roll was called and a quorum was declared present.

MEMBERS PRESENT:

Chairman James Gentry, Vice-Chairman James Dunn, Board Members: Mac McKinney, Rohan Ramlackhan, and Eric Weiss

MEMBERS ABSENT:

Mark Maciel and Kent Horsley - excused

STAFF PRESENT:

City Attorney Kurt Ardaman, Community Development Director Ed Williams, Senior Planner Stephen Pash, and Customer Service Representative Kathy Rathel

3. APPROVAL OF MINUTES

Approval of minutes from the regular meeting held on September 9, 2013.

Motion by Jimmy Dunn to approve the above minutes. Seconded by Eric Weiss, the motion carried unanimously 5-0.

ANNEXATION, REZONING, FUTURE LAND USE MAP AMENDMENTS (Public Hearing)

4. 1150 & 1170 Elboc Way (Mary P. & Clint O. Webster)

Senior Planner Stephen Pash presented a Rezoning and Future Land Use Map Amendment application for 1150 & 1170 Elboc Way. The applicant wants to operate an office at 1150 Elboc Way and use 1170 Elboc Way as a temporary storage of metals for a recycling

business. The City's Legal Affairs is working up an agreement to allow this use on a 5-year temporary basis. No outdoor storage, activities, or sales of any type will be allowed with the temporary use. All storage will be inside a warehouse. The rezoning from I-2 to C-2 is consistent with the surrounding area around State Road 50. Staff recommends approval of Ordinances 13-66 and 13-67 with the temporary agreement.

James Gentry questioned what if an agreement could not be worked out. Senior Planner Pash stated the owner has already met and agreed to all terms of the agreement.

Motion by Eric Weiss to recommend approval of 1150 & 1170 Elboc Way rezoning with Staff Recommendations and with the condition that the use be allowed subject to the agreement of the 5-year temporary usage (Attached Exhibit "A"). Seconded by Jimmy Dunn, the motion carried unanimously 5-0.

VARIANCE (Public Hearing)

5. **Windtree Gardens Condominiums Pool Fence**

Senior Planner Steve Pash presented a Variance request for the Windtree Gardens Condominiums pool fence. The applicant is requesting a variance to allow an 8' tall un-climbable chain link fence around the swimming pool. Staff finds this request meets all of the criteria for the variance request and recommends approval.

Eric Weiss asked if a previous fence approved was useful, Senior Planner Pash responded yes, it helped eliminate the after-hours use by non-residents. Mac McKinney asked what made a 'non-climbable' fence. Senior Planner Pash explained it was the 1" link squares.

Motion by Eric Weiss to recommend approval of the variance for Windtree Gardens Condominiums pool with Staff Recommendations (Attached Exhibit "B"). Seconded by Rohan Ramlackhan, the motion carried unanimously 5-0.

6. **ADJOURNMENT**

There being no further business, the meeting was adjourned at 6:41 p.m.

APPROVED: **ATTEST:**

~~**Chairman James Gentry**~~
Vice Chairman Jimmy Dunn

Customer Service Rep Kathy Rathel

EXHIBIT "A"

CITY OF WINTER GARDEN

PLANNING & ZONING DIVISION

300 West Plant Street - Winter Garden, Florida 34787-3011 • (407) 656-4111

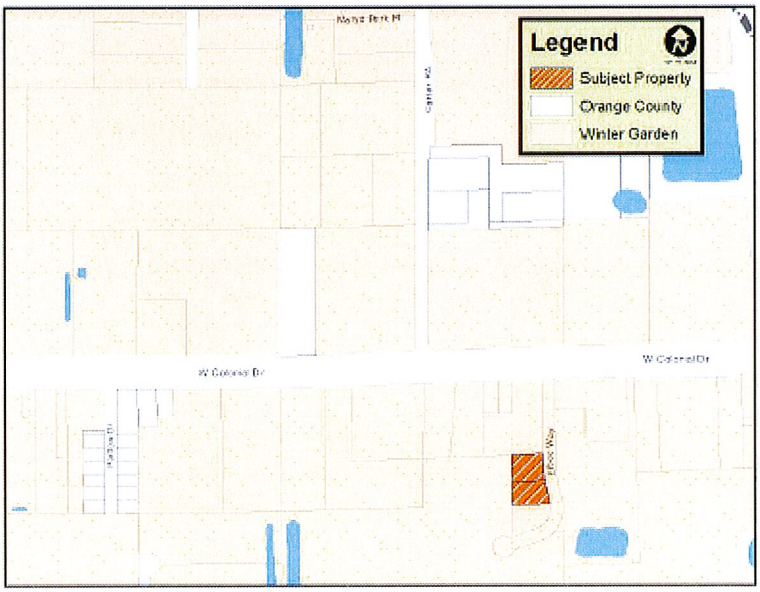
STAFF REPORT

TO: PLANNING AND ZONING BOARD
PREPARED BY: STEVE PASH, SENIOR PLANNER
DATE: OCTOBER 7, 2013
SUBJECT: REZONING & FLU AMENDMENT
1150 & 1170 ELBOC WAY (0.83 +/- ACRES)
PARCEL ID #: 25-22-27-8814-00-030 & 25-22-27-8814-00-020
APPLICANT: MARY P. & CLINT O. WEBSTER

INTRODUCTION

The purpose of this report is to evaluate the proposed project for compliance with the City of Winter Garden Code of Ordinances and Comprehensive Plan.

The subject property is located at 1150 and 1170 Elboc Way and is approximately 0.83 ± acres. The map below depicts the proximity of the subject property to the City's jurisdictional limits:



The applicant is requesting to rezone and amend the Future Land Use designation on the 0.83 ± acre property which is located within the City of Winter Garden. The property is currently zoned I-2 (General Industrial District) and carries a Future Land Use Designation of I (Industrial) on the Future Land Use Map of the City's Comprehensive Plan. The proposed zoning is C-2 (Arterial Commercial) and the proposed Future Land Use designation is C (Commercial).

EXISTING USE

The subject property is currently developed with a 5,097 square foot office building at 1150 Elboc Way which was built in 1986, and a 3,375 square foot warehouse at 1170 Elboc Way which was built in 1997.

ADJACENT LAND USE AND ZONING

The property located to the north is developed with a commercial building that has retail and restaurant uses, located in the City, and zoned C-2. The property located to the east is developed with a bus sales and service facility, located in the City, and zoned C-2. The property to the south is developed with a warehouse, located in the City, and zoned I-2. The property to the west is developed with a road construction company, located in the City, and zoned I-2.

PROPOSED USE

The applicant intends to rezone the property to operate an office at 1150 Elboc and is proposing to use the warehouse at 1170 Elboc for a metal recycling storage facility for the next 5 years. After the five year lease for the warehouse expires, the owner intends to demolish the warehouse and construct additional office space.

PUBLIC FACILITY ANALYSIS

The City will continue providing garbage collection, police protection, and all other services regularly provided to City of Winter Garden residents including building permits. The property will be served by both Orange County Fire and Rescue and the City of Winter Garden Fire Department under the First Response System.

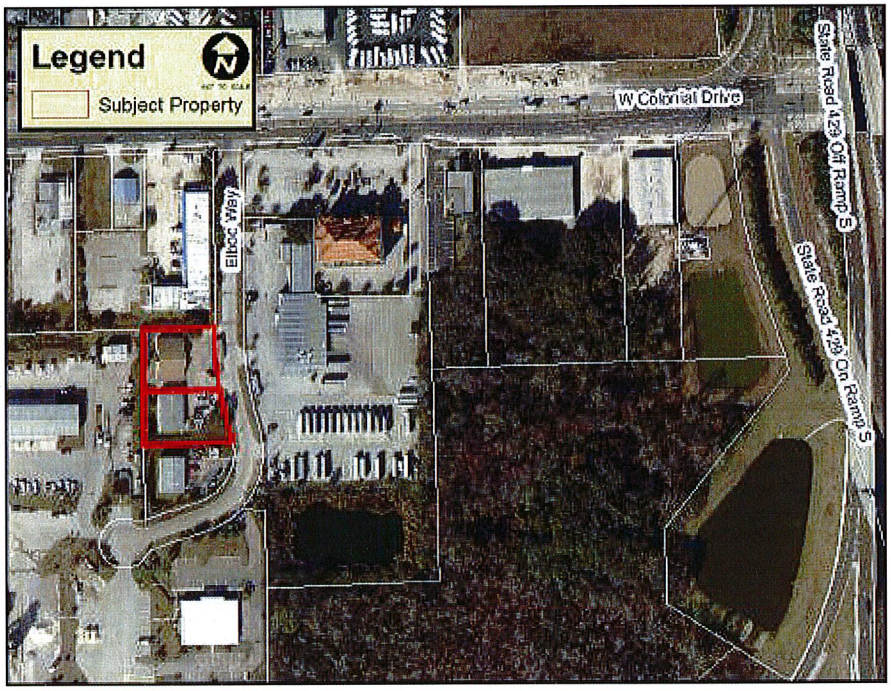
SUMMARY

The C-2 zoning and Commercial Land Use designation are more consistent with the area to the north and will allow uses more consistent with the goals and objectives of the City of Winter Garden's Comprehensive Plan. City Staff recommends approval of the proposed Ordinances to Rezone the property and change the Future Land Use designation.

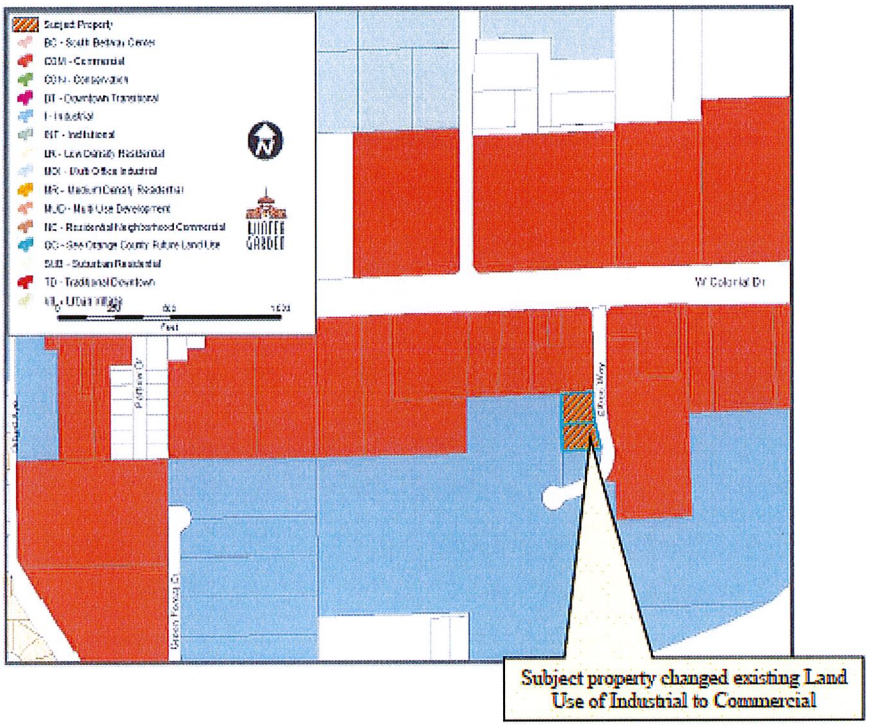
MAPS

AERIAL PHOTO

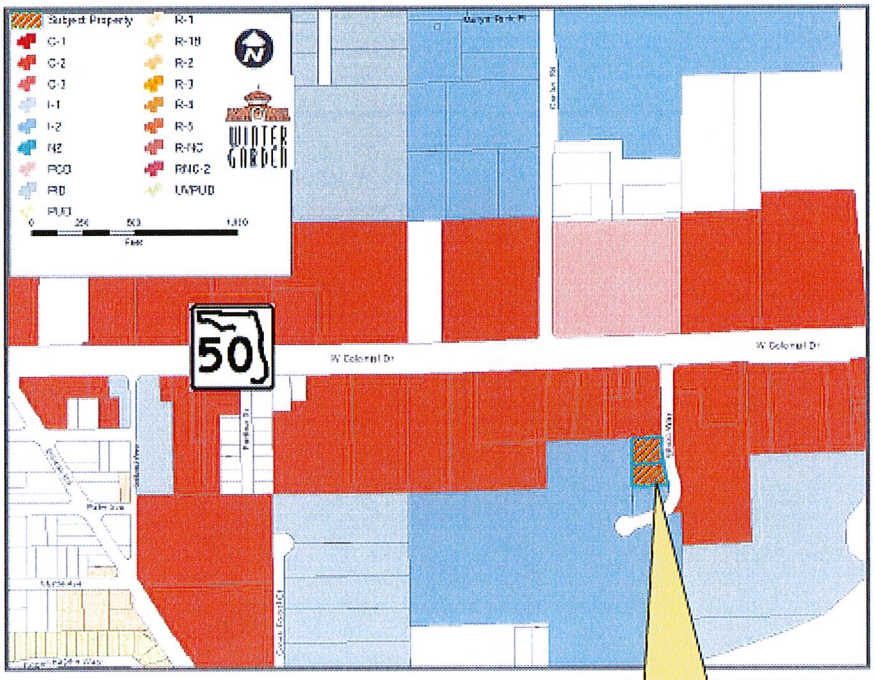
1150 & 1170 Elboc Way



FUTURE LAND USE MAP
1150 & 1170 Elboc Way



ZONING MAP
1150 & 1170 Elboc Way



END OF STAFF REPORT

EXHIBIT "B"

CITY OF WINTER GARDEN

PLANNING & ZONING DIVISION

300 West Plant Street - Winter Garden, Florida 34787-3011 • (407) 656-4111

STAFF REPORT

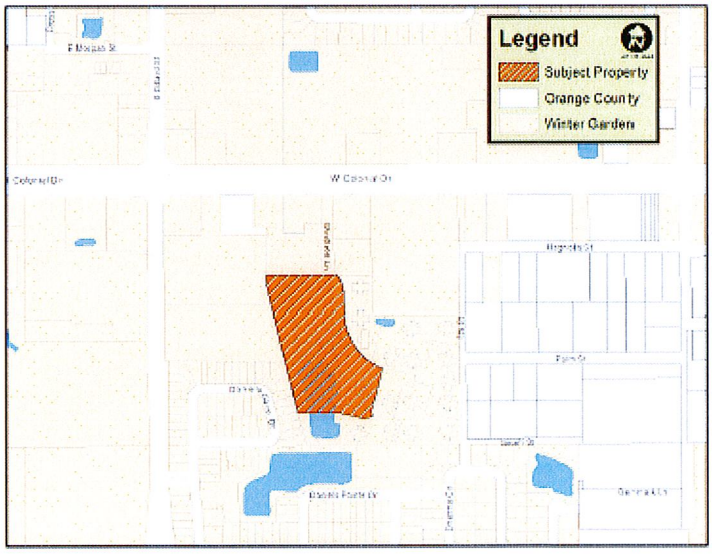
TO: PLANNING AND ZONING BOARD
PREPARED BY: STEVE PASH, SENIOR PLANNER
DATE: OCTOBER 7, 2013
SUBJECT: VARIANCE
13350 West Colonial Drive (1 +/- ACRES)
PARCEL ID # 26-22-27-9361-00-001

APPLICANT: Windtree Gardens Condominiums HOA

INTRODUCTION

The purpose of this report is to evaluate the request for a variance to the maximum allowed fence height for swimming pool property located within the Windtree Gardens Condominium complex in Winter Garden, Florida.

The subject property, located in Wintree Gardens Condominiums is the recreation/pool area for the Condominium complex. The recreation area consists of a 1 ± acre lot that has a swimming pool, clubhouse, tennis court, and is located on the west side of Windtree Lane. The map below depicts the location of the subject property within the City of Winter Garden municipal limits:



The applicant is requesting a variance to install an 8 foot tall fence in lieu of the maximum allowed 6 foot tall fence, so they can install an 8 foot tall unclimbable fence around the swimming pool. The subject property carries the zoning designation R-3 (Multi-Family Residential District) and is designated MR (Medium Density Residential) on the Future Land Use Map of the City's Comprehensive Plan.

EXISTING USE

The subject property presently consists of a swimming pool, a 2,100 square foot structure, and a tennis court. The remainder of the 1 acre site is open space.

ADJACENT LAND USE AND ZONING

The recreation area is surrounded by the Windtree Gardens Condominiums community. The properties located to the north of Windtree Gardens Condominiums are commercial land with office space and restaurants, zoned C-2 and located in the City. To the south and west of Windtree Gardens Condominiums is a single family neighborhood (Daniels Crossing), zoned PUD and located in the City. The properties to the east of Windtree Gardens Condominiums consist of single family houses, zoned A-1 and located in Orange County.

PROPOSED USE

The recreation area will keep all of its existing buildings, tennis court, and open area. The applicant is requesting to install an 8 foot tall unclimbable chain link fence which has very small openings and is stated to be unclimbable. The reason the HOA wants to install this fence is to prevent people from trespassing and to keep people from climbing the fence to get into the pool area.

CODE REFERENCE

Section 118-1297(a)(1), Section 1297(a)(2), and Section 118-1297(a)(3) of the City Code of Ordinances addresses maximum fence height in the front, side, and rear yards. These sections state in part that the maximum fence height is 4 feet in the front yard and 6 feet in the side and rear yards."

The applicant is seeking a variance to the maximum fence height to allow the existing 6 foot tall chain link fence to be replaced with an 8 foot tall unclimbable chain link fence. The application for variance does not include any removal of trees on the property or addition of any new impervious surfaces.

CODE REQUIREMENTS /CRITERIA

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.

P&Z : PH12-049

(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;
The proposed fence is within the Windtree Gardens Condominium neighborhood and is not visible from any surrounding neighborhoods. The fence is around the pool to prevent people from entering if they do not live there and to protect people from injury. Due to the location of the fence, it should not negatively impact or interfere with the reasonable enjoyment of adjacent or nearby property owners. Additionally, there were no comments received from any of the surrounding property owners regarding the requested 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 to allow an 8 foot tall fence in lieu of the maximum 6 foot tall fence is not out of character with other properties in the same zoning category. Allowing an 8 foot tall unclimbable chain link fence around a swimming pool within a multi-family development is common to help prevent outside people from entering the pool without permission.

(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 add any new impervious surfaces to the property.

(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 multi-family residential neighborhoods.

(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 the minimum variance that will make reasonable use of the land, as the Homeowners Association is requesting the variance to help protect their property and prevent people from trespassing and/or climbing the fence to get into the pool area. Denying this variance does not benefit the property owner or the City.

SUMMARY

City Staff recommends approval of a variance to Section 118-1297(a)(1), Section 1297(a)(2), and Section 118-1297(a)(3) to allow an 8 foot tall unclimbable fence to be constructed around the swimming pool area.

P&Z : PH12-049

NEXT STEP

Apply for a building permit to install the new fence.

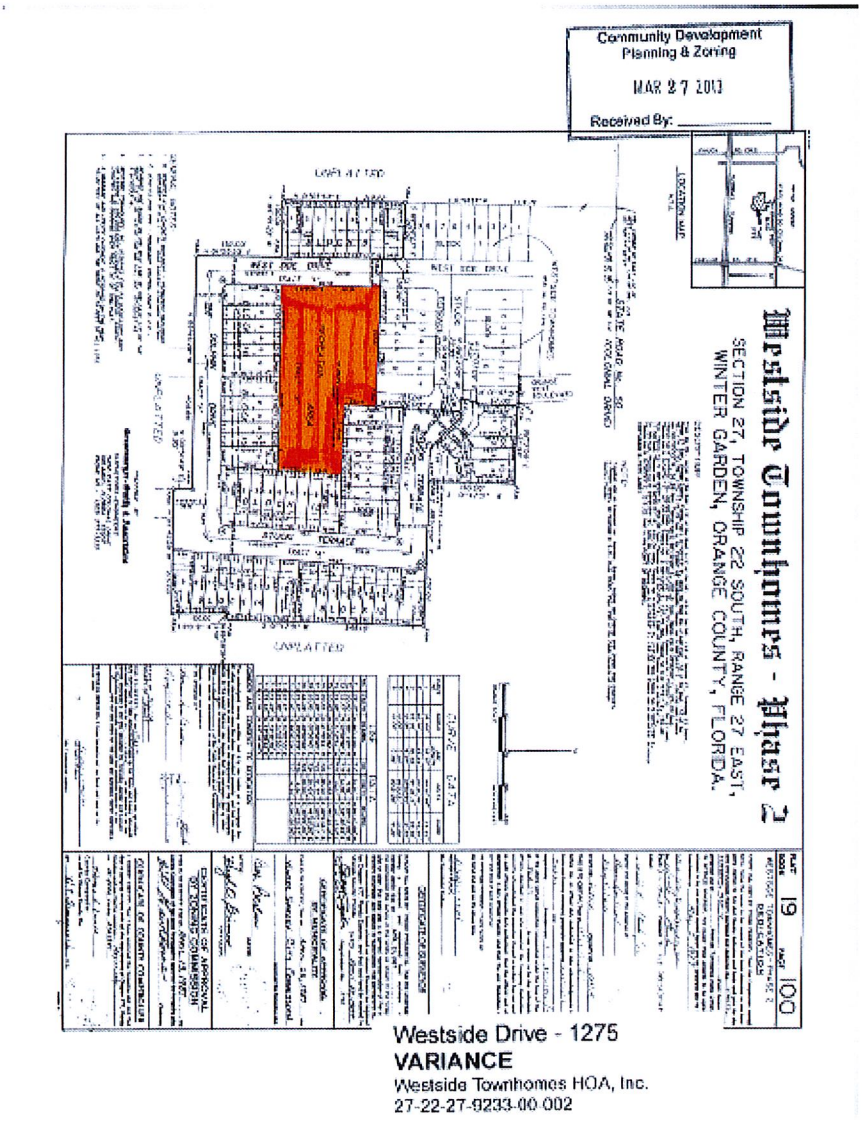
ATTACHMENTS

- Aerial Photos
- Site Plan/Plat
- Site Photos

AERIAL PHOTO
13350 West Colonial Drive

P&Z : PH12-049

SITE PLAN
1275 Westside Drive



P&Z : PH12-049

Site Photos
1275 Westside Drive

P&Z : PH12-049

END OF STAFF REPORT

P&Z : PH12-049