

TOWN OF WINDERMERE

Development Review Board Meeting Minutes

July 16, 2019

Present were Chair Frank Chase, Board Members; Norma Sutton, Stephen Withers, Molly Rose, Jennifer Roper, and Peter Fleck. Town Manager Robert Smith, Town Planner Brad Cornelius, and Town Clerk Dorothy Burkhalter were also present. Council Liaison Bill Martini was also present.

Per the Land Development Code, Sec 11.04.01(1)(I), Timothy Balding has been removed from the Board as a member.

Chair Chase called the meeting to order at 6:30pm. He then led everyone in the Pledge of Allegiance.

1. OPEN FORUM/PUBLIC COMMENTS:

Public that signed in deferred to speak until their agenda item is presented.

2. OLD BUSINESS: NONE

3. NEW BUSINESS:

a. MINUTES:

i. DRB meeting minutes June 18, 2019

Member Rose made a motion to approve the DRB minutes of June 18, 2019 as presented. Member Withers seconded the motion. All were in favor.

Member Withers reported that the Town Council did approve the past variance and sign request at their meeting.

b. GENERAL ITEMS FOR CONSIDERATION:

i. First Amendment to Sunset Bay Development Agreement

Chair Chase turned the floor over to Mr. Brad Cornelius, Town Planner with Wade Trim. Mr. Cornelius introduced himself. He then stated that he is presenting the first proposed amendment to the original Developers Agreement from 1988. Mr. Cornelius explained the proposed changes in the agreement as; road maintenance, street lighting, sidewalk maintenance, street signage maintenance, and the perimeter wall. He stated that 68 public notices were mailed to property owners within Sunset Bay and surrounding properties within 500 feet of Sunset Bay. Mr. Cornelius stated that four responses in favor, and one in opposition had been received. Manager Smith stated that prior years, annexations did not have annexation agreements. He then gave a description of the two areas; Down Point Lane and Sunset Bay. Manager Smith then commented on the proposed changes. Discussion followed. Member Withers commented that the only change that needs to come before the Development Review Board is the wall. He further commented that

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the remaining items are financial and contractual matters, which are approved by the Town Council. Manager Smith commented on the minor financial impact, which would not have an effect on the residents in the Town. Chair Chase questioned the stormwater responsibility. Manager Smith stated that there were no changes in that area. Discussion followed regarding drainage and right of way acquisition. Chair Chase opened the floor to the public. There were no public speakers. Member Rose made a motion to recommend that the Town Council adopt the first amendment to the proposed Developers Agreement. Member Roper second the motion. All were in favor. Manager Smith stated that there will be two public hearings, August 13th and September 10th, by the Town Council, 6:00pm, located at 520 Main Street.

- ii. **Removal of 111 W 5th Avenue and 119 W 5th Avenue from the Town Center Design District and rezoning 111 W 5th Avenue to Commercial**
 - a. **Ordinance 2019-02 Amending Town's Land Development Code and Town Center District Guidelines Master Plan to remove 111 W 5th Avenue and 119 W 5th Avenue from the Town Center District Guidelines Master Plan**
 - b. **Ordinance 2019-03 Ordinance to adopt a small-scale future land use amendment to the Town's 2035 Future Land Use Map to remove 111 W 5th Avenue and 119 W 5th Avenue from the Town Center Overlay District.**
 - c. **Ordinance 2019-04 Ordinance to rezone 111 W 5th Avenue from Residential with Town Center District Guidelines Overlay to Commercial.**

Chair Chase introduced this item. He then turned the floor over to Mr. Cornelius. Mr. Cornelius explained that three Ordinances are being proposed. He then stated that this is coming before the board due to the Owner of the property having interest in changing it to commercial. Mr. Cornelius explained that there is a process that must be followed to change the zoning. He then commented on the Town Center District Guidelines Master Plan that was adopted in 2004, residential/commercial locations, and current uses. Mr. Cornelius explained that the first item needed would be to have a recommendation to approve or deny the removal of the two properties from the Town Center District Guidelines Master Plan. He further explained that if the recommendation fails, items "b" and "c" will not be needed. Mr. Cornelius commented on the process that would take place should item "a" be recommended for approval. He further commented on the zoning/uses with the surrounding properties and the past amendment to commercial use in 2018. Member Roper questioned the approved commercial change in 2018. Chair Chase explained that it was not a specific item but a collective approval in the Future Land Use. Mr. Cornelius stated that the house located at 111 W 5th Avenue is currently zoned residential and is located between commercial and public use properties. He then explained that the rezoning of the property could be done with restrictions. Manager Smith also stated that restrictions could be very restrictive. Chair Chase questioned if 111 is currently designed for a parking lot. Mr. Cornelius stated yes. Member Roper questioned the current zoning. Mr.

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Cornelius stated residential but also located in the Town Center Design Guidelines. Discussion followed regarding the current parking lot at 119 W 5th Avenue, future land uses, zoning designations, and parking. Member Withers commented on concerns with the septic tank at 111 W 5th Avenue. Manager Smith stated that the owners will address the septic should there be an issue. Mr. Cornelius stated that notices were sent out. Ten were received in favor, in which three were from family members of the owners of 111 W 5th Avenue, and six in opposition of request "a". Mr. Cornelius then stated that for the small-scale amendment, nine in favor were received with three received from the family members of the owner, and six in opposition. Member Roper questioned how many notices were sent out. Mr. Cornelius stated, "roughly sixty". Member Roper questioned if the 500' foot radius was used for the mailings? Mr. Cornelius stated yes. Member Withers questioned who owns the Windermere Market shopping center. Manager Smith stated the Williams family. Member Withers questioned if they own the house as well. Manager Smith stated yes. Member Withers commented on parking concerns at the shopping center. Discussion followed regarding parking. Chair Chase opened the floor to the applicant. Mrs. Colleen Williams of 903 Rosser Road and owner/family representative introduced herself. She stated that the property (111 W 5th Avenue) was acquired in 2000. Mrs. Williams stated that the family intends on keeping the tradition of Windermere but expanding the current location. She then stated that a family member currently lives in the home. Member Rose questioned what the family intentions are with the property. Mrs. Williams stated that the plan is uncertain at this time as there have been different interests. Member Fleck questioned if a feasibility study had been done to determine space with the setbacks and septic, etc.? Mrs. Williams stated not at this time. Chair Chase then opened the floor to the public. First to speak was Mr. Cecil Robinson of 202 E 5th Avenue. Mr. Robinson stated that his concern is with setting a precedence with approving this change. He then stated that he would ask the Board to not approve this change. Mr. Joseph Ata of 5 Pine Street introduced himself. He then stated that he is in strong support for the commercial zoning. Mr. Ata stated that with the recent acquisition, park developments, approval of new facilities, the Town is moving in a new direction to benefit its residents. Mr. Ata stated that he encourages the Board to approve the request. Mr. Andrew McGhee of 226 Butler Street introduced himself. He commented on younger generations moving back to Windermere and how the downtown needed to have businesses to keep them here. Mr. McGhee stated he would like the Board to recommend approval to the Town Council. Mrs. Genevieve Potthast of 425 Butler Street introduced herself. She then pointed out the "No Build Beyond This Point" line on the map. Mrs. Potthast commented on the past goals of the Master Plan. She then cautioned the Board on any changes to the plan and setting precedence. Mrs. Potthast commented that only parking is to abut the residential lots across the street. She then commented on the early commercial garbage pick-ups that bother residents, and issues on 5th Avenue during Farmers Market and Food Truck events. Mrs. Potthast stated that the Board needed to be very cautious in the decision, as the east side of 5th Avenue has a new Developer and a precedence could be set as well as a future lawsuit. Manager Smith advised Mrs. Potthast that there is an Ordinance in process restricting the garbage pick-up time. Mrs. Potthast thanked Manager Smith. Mr. John Spears of 406 Forest Street introduced himself. He commented on the existing parking lot and issues he has with it. Mr. Spears stated that he is not in favor of the change. He then stated that the Design Guidelines needed to be adhered too. Mr. Mohamed Fahmy of 435 Butler Street introduced himself. He then stated he is not in favor of this change. There were no further public comments. Member Roper commented on the residents who have spoken and that they will be the most impacted. Some discussion followed regarding the "Town not needing to follow its own rules" and the issues at the existing parking lot. Member Rose stated she has been very active in the Town due to the traffic, commercial

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development, lack of parking, and setting a precedence. She then stated that she could not support changes to the approved Master Plan. Member Rose further stated her concerns with protecting the quietness of the Town, not encouraging more traffic through Town, and not encouraging commercial development in Town. Member Withers commented on his concerns of a commercial septic tank sitting on a residential property. He then questioned if the map could remain but the underlying zoning changes to commercial for a commercial standard. Mr. Cornelius explained that it could be removed from the Master Plan, the Comp Plan be amended and then restrict the zoning. Member Withers questioned the process for a commercial grade septic tank for that property. Mr. Cornelius stated that the system is existing for the existing usage which was approved by Orange County. Member Fleck questioned if there is a special use condition that could be utilized. Mr. Cornelius stated that due to the code, restrictions could be applied. Some discussion followed regarding the yellow house behind the Town Admin offices, and surrounding zoning and uses. Mr. Cornelius explained the process that would need to take place if the Board wishes to recommend approval. Chair Chase requested a motion. Member Rose made a motion to deny proposed Ordinance 2019-02. Member Fleck seconded the motion. All were in favor. Member Withers made a motion to deny proposed Ordinance 2019-03. Member Rose seconded the motion. All were in favor. Member Rose made a motion to deny proposed Ordinance 2019-04. Member Roper seconded the motion. Voting was as follows: Withers – yes, Chase – no, Rose – yes, Roper – yes, and Fleck – yes. Motion carried 4-1. Chair Chase stated he voted no as he feels the building should have a commercial zoning. Manager Smith stated that this item will be heard by the Town Council for a first reading on August 13th, with a second reading public hearing on September 10th. Some discussion followed regarding commercial use out of the house.

iii. New Member Recommendation

- a. Mark Keller – 226 Main Street
- b. William Yeager - 415 W 1st Avenue

Member Withers made a motion to recommend William Yeager for approval to the Development Review Board. Member Fleck second the motion. All were in favor.

4. ADJOURN:

Member Rose made a motion to adjourn the meeting. Member Withers seconded the motion. All were in favor.

The meeting adjourned at 8:28pm


Dorothy Burkhalter, Town Clerk


Frank Chase, Chair