

BOARD OF ADJUSTMENT

MINUTES

WEDNESDAY
SEPTEMBER 19, 2007

9:01
AM

MINNEOLA CITY HALL
COUNCIL CHAMBERS

CALLED TO ORDER BY	Donald Schreiner, Chairman, noted for the record that there was a quorum present. He confirmed Proof of Publication and noted that the meeting had been advertised pursuant to the Sunshine Statute.
RECORDING SECRETARY	Anna Ely
BOARD ATTENDEES	Donald Schreiner Henry Wolsmann Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Steven Berk
NOT PRESENT	
DEPARTMENT OF GROWTH MANAGEMENT REPRESENTATIVES	Terrie Diesbourg, Director, Zoning Division Anita Greiner, Chief Planner, Zoning Division Paul Simmons, Planner, Zoning Division Anna Ely, Public Hearing Coordinator, Zoning Division Brian Sheahan, Interim Director, Planning and Community Design
BOARD ATTORNEY	Sanford A. Minkoff, County Attorney Melanie Marsh, Deputy County Attorney

BOA#97-07-2 **PLAZA COLLINA**

DISCUSSION	<p>Donald Schreiner, Chairman, called the meeting to order and noted for the record that there was a quorum present. He stated that proof of publication was on record with the County. He stated the purpose of the hearing was to address the Plaza Collina preliminary site plan appeal. He asked staff to read into the record the site plan and application information.</p> <p>Anita Greiner, Chief Planner, stated that the meeting was being held to discuss the appeal of the July 2nd, 2007 final approval of the Master Site Plan for the Development of Regional Impact known as Plaza Collina. Site plan #2005080023 - Application #900.</p> <p>Sanford Minkoff, County Attorney, stated that the Appellants and property owners have been in discussion. He stated that the County did not participate in that process, but were made aware of it by both parties. He believed that they had an agreement to present to the Board.</p> <p>He also stated that the Lake County Board of County Commissioners requested the Department of Community Affairs to review the site plan that was approved to determine if the site plan deviated substantially from the DRI Order. He stated that they were in receipt of an email from DCA; he read the statement contained in the email from James Stansbury; "at this time, the Department does not have any evidence on which to conclude that the changes would create a substantial deviation."</p> <p>He distributed a copy of a letter from Rich Dunkel, Appellant, to the Board</p>
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members.

Greg Gensheimer, Appellant, stated that over the last couple of weeks, the remaining appellants have been working with the developers and that there was a settlement agreement to be distributed to the Board members.

Michael P. McMahon, Esq. of Akerman Senterfitt was in attendance to represent Plaza Collina. He distributed copies of the fully signed settlement agreement and a proposed Order to the Board. He asked that John Dowd, with the Goodman Company, be permitted to speak and go over the process used in creating the settlement agreement.

John Dowd thanked everyone involved for going through a healthy process. He stated that they had walked the site with the appellants and talked about their concerns. They worked to address the concerns and came to an agreement. He stated his belief that the project is a better project for going through this process.

Mr. Schreiner confirmed with the Appellants that they were in agreement with the settlement agreement presented.

Mr. Minkoff asked for the sake of the Board and the public that the settlement agreement be stated and the terms and agreements be explained.

Mr. McMahon stated that the main aspect of the agreement is preserving the South Lake Trail and Scenic Byway (County Road 50).

One of the key issues was preserving trees, so they worked together and developed a tree preservation plan separate and apart from what would normally be done. He stated that on the site plan there is a storm water pond on the east side of the property. It was decided that the pond would be reshaped so that stands of trees can remain and provide buffering. He stated that the site is a 142-acre hill that is over one mile long and that there will be a plateau with a slope that normally would be engineered to a three to one slope. The trees are small and numerous in this area and provide a visual buffer, so it was asked that the slope be pulled back to save the trees. He stated that County landscape engineers agreed to a two to one slope, which will save the trees from being bulldozed. This is in addition to buffers already included in site plan, so there will be a very wide area left untouched. He stated that the slope will be planted according to a landscape plan to grow into a natural landscaped appearance. Another element was along the top of plateau where there are stands of trees. He stated that the developers have agreed to pull back and eliminate parking spaces and minimize impact on that area.

Another key concern was the Scenic Byway, and that installations of the shopping center would not intrude on County Road 50. No installations are to be put in place that would give the appearance that the Scenic Byway or bike trail were part of the development. The whole area along the Scenic Byway and bike trail will be left in its natural state. Mr. McMahon stated that it was agreed that where the road will intersect the Scenic Byway, that there would only be one eight foot tall natural materials monument sign without lighting allowed along County Road 50, and no other signs would be allowed.

He spoke about the road going through the shopping center along the Scenic Byway, traffic roundabouts and their calming effect upon traffic and the fact that they have a visually less obtrusive impact. They agreed to design a traffic

roundabout if possible. He spoke of the importance of using stop signs along the Scenic Byway, instead of signals.

Another key issue was the trees along the waterline, which runs along the bike trail. Mr. McMahon stated that rather than putting the pipe down the middle of the easement as is typically done, there was a provision in the agreement to physically walk the waterline and stake the line to save trees. They agreed to bend the line around the stands of trees so they could be saved. In areas where doing so would mean going outside the easement and intruding in the bike trail, the recommendation is to go into the trail, but to then restore the surface of the trail.

The management program calls for any trees that are disturbed along the waterline that die within three years of installation to be replanted. Replanting of any trees will be done in agreement with the Bike Trail and Byway Committees, for the best placement of any replacement trees.

In regards to any big box store backing up to the rear of property, it was agreed if possible to shift it to the west side of the project and orient it so that the narrow sides are oriented toward County Road 50 and the larger sides are facing internally. The distancing, buffering and slopes should be done in such a way as to prevent the store from being seen from the bike trail.

He spoke of issues that are not being addressed in the agreement. He stated that along State Road 50 the Appellants had concerns about the spacing and placement of three traffic signals. He stated that the LDRs are not applicable in this case and that DOT establishes the standards along State Road 50; and that the signals have DOT approval as part of the Plaza Collina road improvement plan along State Road 50 that must be completed before anything can be built. Regarding the issue of pedestrian crossing, it was determined that the original request for the pedestrian crossing is too steep to safely construct a crossing at that location. When plans are completed, the crossing may be placed at another location.

Ruth Gray, Board Member, asked what had happened to the mixed use and residential units.

Mr. McMahon stated that originally they submitted a conceptual plan of how things could be laid out, but it was never approved. He stated that what the County approved and what is now under review is a system of pods. Before any structure can be built, each pod must be reviewed and the detailed site plan for the whole segment has to be approved to insure the coordination and overall interconnectivity within the development. He stated that in regards to the site plan, there are no particular structures involved.

He stated that the mixed use issue came up when no residential units were shown on the plans. When the project went through initial review in 2004, there was great concern regarding the lack of residential units. The LPA recommended against any residential, but when it went before the Board of County Commissioners, it was decided residential units could be placed in the second phase if there is capacity in the schools at that time. Neither at this time, nor in the foreseeable future, do they expect there to be school capacity. He stated that there is the potential for future residential growth if school capacity is there. He stated that with the big box installation being shifted to the west, that the area to the east could possibly be presented as a Lifestyle Center with mixed residential and commercial, if the school issues can be addressed. They decided not to present any residential use

on the site plan as it would be purely hypothetical.

Ms. Gray questioned the reduction in office space.

Mr. McMahon stated that although there is a small amount of allowable office space included on the conceptual preliminary site plan, but it is not a required use. That leaves flexibility to develop one of the Lifestyle Centers as mixed use commercial or office. As it is stated in the PUD, there is allowance for retail or office. The preliminary plan in 2004 set forth the mixed uses of retail commercial, personal services, as well as office. It is a flexibility that would allow these mixed uses along with residential if resources are in place and there is school capacity at that stage in the planning. He stated that a project this large has to remain flexible to adjust to the market as each stage is built.

He stated that the important part that is under review at this time is the engineering, interior roadways, landscape buffer plans, the utilities and storm water controls. He stated that staff requires that they come back in with detailed plans and details regarding all the structures and parking lot areas. County staff would not approve a conceptual plan, but are requiring each section to be reviewed to insure the interconnectivity of the project.

Ms. Gray stated the concerns expressed by the Appellants that this had basically become a 142-acre retail project anchored by a big box store instead of a mixed use project.

Mr. McMahon stated that it has been primarily retail from the beginning and from the very first application it has been a big box oriented retail center. It was proposed that way in the application for development approval and it is approved in the DRI and the PUD, which specifically exempts it from the normal 100,000 square foot limitation on stores. It has always been big box oriented, but there is also going to be stores of all sizes. There will be a complete mix of different kinds of retail as well as other services. It is not limited to any one thing.

Mr. Gensheimer stated as a clarification that one of the settlement objectives is not to just create a roundabout on County Road 50, but to try to restrict traffic. Originally it was planned for four lanes and they wanted to restrict it down to two lanes and they also wanted to restrict truck traffic from the Scenic Byway. He stated that those concerns are addressed specifically in paragraph two of the settlement agreement.

Ms. Gray stated that although the issues regarding the Bike Trail and Scenic Byway were addressed; it appears that the issues brought forward by the Appellants in regards to the mixed use have not been satisfied.

Mr. Gensheimer explained that decisions were made concerning what was and was not important and the costs associated with putting forth a full fledged effort. It was decided that what was important, was to work with developers and the developer's attorneys to come to an agreement that was achievable on both sides and to create an acceptable compromise with regards to the Scenic Byway. He stated that the Scenic Byway is the thread that connects all the communities and that if they can protect the ambience of the communities; they feel they have come a long way toward protecting that part of South Lake County.

Mr. Schreiner stated that what is before the Board is whether they wish to approve the settlement agreement. Before doing so, Mr. Schreiner invited the public to speak regarding their concerns.

Mary Lory, resident of Suburban Shores, stated that she lives about one mile from Plaza Collina. She showed a conceptual drawing of the project and stated that it was shown in the newspaper and on television in 2004, and that she was thrilled because Lake County had nothing like what was shown. She stated that last year she starting hearing about Wal-Mart in connection with the project and stated her opinion that Wal-Mart is not upscale and not something that is needed. She showed a picture of the sign located on the site and she expressed concerns with regards to the information and conceptual plan that is still presented on the developer's website.

Mr. Schreiner explained that the hearing was not to consider the Wal-Mart aspect, as Wal-Mart was not part of original site plan. He asked that citizens limit their comments to the settlement agreement as presented.

John "Jack" Wallace, of Magnolia Pointe, President of a condominium association and member of the Architectural Review Committee and the Master Association Board, stated that they would like to recognize the settlement agreement as a positive step forward in the process. He stated that they have had and still have concerns about the type of big box store that will be located there. He spoke of their concerns with traffic flow on State Road 50 and stated that Magnolia Pointe is an upscale community and they would like to preserve the aesthetics throughout the community. He stated that they felt that any final agreement should include insurances that any 24-hour, seven day a week operation would be prohibited. He spoke about preventing an increase in crime in the area. He asked that any hours of operation be limited to 6 AM to 11 PM. He stated that they ask that this be added to the settlement agreement or they plan to appeal further development.

Dana Kelly, resident of Suburban Shores, spoke about the increase in crime in connection with big box stores. He wanted the board to address this issue in their final review.

Jim Pierce, Council Member, Town of Montverde, stated that he has been watching the process and today was the first day that he had heard of the settlement agreement. He stated that there are a lot of issues with the agreement. He asked the County Attorney if another appeal can be brought forth.

Mr. Minkoff stated that the County has approved the master site plan and that the appeal limitation of 30 days has passed and no other appeals may be filed with regards to the master site plan. He stated that as individual pods come forward, they will each have individual site plan approvals and that there will be the opportunity for appeal at that time.

Robert Tomlinson, resident of the Town of Montverde, stated that he sees an oversight by the County in regards to the County Road 455 corridor going through their town. He stated that he sees a big box store as a way for the County to obtain money to improve County Road 50. He stated he believes that it shows incompetence by the County for relying on developers to improve roads. He stated that the Town of Montverde plans to appeal as they feel they will receive the largest impact in regards to this project due to the County Road 50 (Scenic Byway) being the only road going through their town. He stated that this project, along with the Sugarloaf project, will greatly increase traffic through their town. He spoke of the County Road 455 beautification; of the impact to the school that has been there 75-80 years; and the roads that are already failing. He stated that at the intersection of County Roads 50 and 455, the road has been failing for years. He stated that this development is going to force their town to go to court unless

the developer can work with them to create a bypass around their town.

Mr. Schreiner asked for further comment. Hearing none, he returned it to the Board and asked the Appellants if they had any further comments.

Mr. Minkoff distributed a proposed order, based on the settlement agreement, to the Board for their consideration.

Ruth Gray asked if this matter still had to go before the DCA.

Mr. Minkoff stated that the County was already in receipt of an email from DCA, stating that they did not have any evidence on which to conclude that the changes would create a substantial deviation.

Tony Fernandez spoke of his concerns regarding a big box store being planned.

Mr. Schreiner stated that the big box store issue is not part of the preliminary site plan.

Mr. Minkoff stated that the development order has always stated that this project would contain large big box retail. He stated that it has always been part of the County approvals and that it is in writing, in the DRI and PUD orders, that were approved in 2004 by the Board of County Commissioners. He explained that the Board of Adjustment is not part of the approval of the project, but only handles any appeals. When asked if there any other open venues for appeal, he stated that there were several public hearings held in regards to this project and lots of opportunity for public input. The Board of County Commissioners' decision that was made after a meeting that lasted several hours, made it very clear that it authorized big box retail.

Mr. Schreiner clarified with Mr. Minkoff that at this time no site plans with buildings have been submitted and that as pods are developed site plans would have to be reviewed.

Lisa Jones, resident of Minneola, spoke of her concerns regarding the types of shopping and entertainment available to the citizens of that area and the types of jobs available.

Troy Bennett, resident of the Town of Montverde, spoke in regards to his concerns relative to the buildings being listed in the settlement agreement.

Sandra Call, resident of Minneola, clarified with the Board that today the Board is only approving a settlement agreement with regards to roads and landscaping. Later, as site plans for building are presented, citizens will be given a chance for input.

Peter Berr, resident of Magnolia Island, stated that the settlement is full of "if and buts and maybes" and that the Appellants may be satisfied, but the citizens are not.

Mr. Schreiner returned it to the Board and stated that he would entertain a motion. He clarified to the Board that the preliminary site plan has no building plans and that each pod will have to be submitted for site plan approval. Public input will be allowed at that time. He stated that they are only here to consider the settlement agreement between the Appellants and the developers.

MOTION

To APPROVE the settlement agreement for BOA #97-07-2 as requested.

READS:			
MOTION BY:	HENRY WOLSMANN	SECONDED BY	STEVEN BERK
MOTION APPROVED 7-0	FOR: Donald Schreiner Henry Wolsmann Mary Link Bennett Ruth Gray Howard B. (Bob) Fox, Jr. Lloyd Atkins, Jr. Steven Berk		AGAINST: None

The meeting was adjourned at 10:07 a.m.

Respectfully submitted.

Anna Ely, Recording Secretary

Donald Schreiner, Chairman