

1 **MINUTES OF THE CITY OF LAKE MARY, FLORIDA, PLANNING AND ZONING**
2 **BOARD MEETING HELD MARCH 10, 2009, 6:00 P.M., CITY HALL, 100 N.**
3 **COUNTRY CLUB ROAD**

4
5 **TAPE 1, SIDE A**

6 I. Call to Order

7 The meeting was called to order at 6:00 p.m.

8 II. Moment of Silence

9 III. Pledge of Allegiance

10 IV. Roll Call - Determination of a Quorum

11 The following members were present:

12 Dr. Robert Hawkins, Chairman
13 Vice Chairman Colleen Taylor
14 Member Sidney Miller
15 Member J.B. Cartmill, II
16 Member Mike Napier
17 Alternate Joe Schofield

18
19 City staff present were Gary Schindler, City Planner; Steve Noto, Planner; and
20 Diana T. Adams, Administrative Secretary. It is noted that Juan (John) A.
21 Omana, Jr., Community Development Director, was at a Strategic Planning
22 session and could not be in attendance for this meeting.

23
24 Also present were Isadore Hyde and Tim Schutz.

25
26 V. Approval of Planning and Zoning Board Minutes - January 27, 2009

27
28 **MOTION:**

29
30 **Member Cartmill moved to approve the Minutes of the Planning and Zoning**
31 **Board meeting of January 27, 2009, as presented. Member Miller seconded**
32 **the motion, which carried unanimously.**

33
34 VI. Old Business

35
36 None

1 VII. New Business

2
3 A. Election of Chairman and Vice Chairman to the Planning and Zoning Board for
4 Year 2009

5
6 **MOTION:**

7
8 **Member Miller moved to elect Dr. Robert Hawkins as Chairman of the**
9 **Planning and Zoning Board for Year 2009. Member Taylor seconded the**
10 **motion, which carried unanimously 5-0.**

11
12 **MOTION:**

13
14 **Member Miller moved to elect Member Taylor as Vice Chairman of the**
15 **Planning and Zoning Board for Year 2009. Member Cartmill seconded the**
16 **motion, which carried unanimously 5-0.**

17
18 B. 2009-VA-01: Recommendation to the Mayor and City Commission for a
19 variance from § 157.04 (Buffer Standards and Requirements), City Code of
20 Ordinances, located at 570 Weldon Boulevard, Lake Mary, Florida; Applicant:
21 Isadore Hyde

22
23 Steve Noto, Planner, presented Item B. and the related Staff Report. The
24 Location Map attached to the Staff Report was on the overhead. He said that
25 this is more of a housekeeping variance really. He stated that last summer the
26 Applicant had a site plan approved and one of the specifics of that site plan was
27 that they were to construct a brick wall along the western property line (puts
28 snippet from the approved site plan that is attached to the Staff Report on the
29 overhead). He said, the double line with the little – called out there is what was
30 proposed and approved. Since then, the Applicant has brought a different
31 engineer onboard, and it turns out the original engineer improperly surveyed this
32 property. The retention pond that is shown on the north side of the property
33 actually extends beyond that western property line. So, building this brick wall
34 would actually – it would not go next to the retention pond, it would go through
35 the retention pond. So, when the Applicant applied for this variance, we made it
36 clear to the new engineer to provide a letter stating why it can't go through the
37 pond, some technical information which is in the Staff Report. It was reviewed by
38 the City Engineer and he concurred with everything in there. We also visited the
39 site this afternoon and for whatever reason that pond does extend beyond the
40 property line and we are not sure why that was not noted properly the first time.

41
42 Mr. Noto stated, the good thing with this variance is that it only – there are
43 different requirements for a variance from the landscape portion of the Code. As

1 you can see, instead of six criteria, there is just one and that is that there is an
2 unusual site size, location, or configuration, and based on what has been
3 submitted to us -- and obviously the approved site plan was not correct in where
4 the pond was shown, so, this does meet the criteria. Again, the City Engineer did
5 review the letter, did visit the site and is in agreement with us that, yes, that brick
6 wall should not be built through the pond; therefore, the request is to stop the
7 brick wall at this point here (indicating to overhead) and that is part of the larger
8 site plan that is a part of the Staff Report.

9
10 Mr. Noto concluded his presentation by saying, so, we do find that the request
11 meets the applicable Findings of Fact and we do recommend approval of the
12 item.

13
14 Chairman Hawkins asked, is the retention pond, as depicted on this plan,
15 sufficient for the property?

16
17 Gary Schindler, City Planner, answered, the retention pond is part of a historic,
18 low, marshy area and it is being – the Applicant is actually capitalizing upon a
19 natural area that encompasses his property as well as property to the west (Mr.
20 Noto puts a colored aerial and several other color photographs on the overhead).
21 So, the answer is yes. It has functioned many years as a retention pond and we
22 don't believe that there is any problem with that having adequate capacity.

23
24 Chairman Hawkins commented, well, I guess I am confused because it doesn't
25 look marshy there to me.

26
27 Mr. Schindler said, well, it is overgrown but the vegetation is such that if you were
28 to go out there, you would be able to tell that it is actually a low depression. They
29 are going to capitalize upon that and improve it and it will continue to flow.
30 Historically, it has flowed from east to west, sheetflow.

31
32 Chairman Hawkins requested Mr. Noto put the portion of the previously-approved
33 site plan back on the overhead.

34
35 Mr. Noto complied.

36
37 Chairman Hawkins questioned, well, it looks like the drawing depicts that this is
38 the bottom of the retention pond and the retention pond will slope up to whatever
39 this level is around the retention pond; is that correct?

40
41 Mr. Schindler responded, I believe that we have the engineer here and I would
42 anticipate that that is going to be revised because if we have a bank, then the
43 wall doesn't go through the pond. So, I would anticipate that there will be no

1 construction along that west edge there and that we will utilize the existing,
2 historic flow characteristics of that area.

3
4 Chairman Hawkins asked, why should this parcel allow its retention to encroach
5 on another piece of property?

6
7 Mr. Schindler replied, because it does now.

8
9 Chairman Hawkins questioned, but why should it in the future? Why should
10 someone's runoff go from here to there (indicating to overhead)?

11
12 Mr. Schindler answered, state law says that when you have natural flow, you
13 cannot do anything to interrupt that flow. So, if you have a drainage area, sluice
14 way, natural wetlands, you may enhance it, but you may not go in and alter that
15 to prevent – you know, to significantly alter the retention or drainage basin.

16
17 Chairman Hawkins commented, well, that answers my question, but then this
18 part of the plan is completely incorrect. That is showing a bank there.

19
20 Mr. Schindler stated, that's correct, but -- the engineer, I believe is – could we
21 bring the engineer up and.....

22
23 Chairman Hawkins asked, you understand my questions? Why I'm asking the
24 questions?

25
26 Mr. Schindler responded, I understand your questions; yes, sir. You are right. It
27 shows a bank, and if we have a pond there, then it doesn't -- then we can't have
28 a bank if it goes off to the west.

29
30 Chairman Hawkins commented, well, certainly, if this applicant wanted to, he
31 could create a bank and create a separate retention pond there; couldn't he?

32
33 Mr. Schindler replied, only if he could document that it would be sufficiently large
34 to accommodate all of the waters that are coming into the wetlands area.

35
36 Chairman Hawkins questioned, is this a wetland?

37
38 Mr. Schindler answered, it is a low, marshy area.

39
40 Chairman Hawkins stated, that is not answering my question.

41
42 Mr. Schindler said, I cannot tell you if it is a wetland. It has been altered so long
43 ago.

1 Chairman Hawkins commented, well, then it needs to be treated separately. If it
2 is a wetland, then it needs to be treated as a wetland, like you say, or if it is not a
3 wetland, then it needs to be treated as its own retention pond.
4

5 Mr. Schindler stated, not necessarily, Dr. Hawkins. It was a low, marshy area.
6 Historically, it did have drainage. Now, that does not necessarily make it a
7 wetland or make it a viable wetland. We have gone back and looked at County
8 aerials from probably the 1950s and 1960s. They were old. I don't remember
9 the age, the dates, and it has always shown this area as being low and would
10 accommodate flow.
11

12 Chairman Hawkins asked, are there pine trees growing in this area (referring to
13 colored photographs Mr. Noto previously put on the overhead)?
14

15 (Mr. Noto puts colored photo back on the overhead) Mr. Schindler responded, it
16 looks like a pine tree, which would not...
17

18 Chairman Hawkins interjected saying, Mr. Schindler, pine trees don't grow in
19 marshy areas. They don't grow where their feet stay wet. You and I both know
20 that. So, if this is overgrown with vegetation, even though it might be a low area,
21 it is definitely not a retention pond and it is not for holding water nor should it hold
22 water because if it ever holds water, you are going to kill all the trees within it.
23

24 Mr. Schindler said, but, Dr. Hawkins, it holds water now. Water from Weldon
25 Boulevard flows into this area. This is the drainage way for Weldon Boulevard.
26 We have asked the Public Works Department to look into this and this is where
27 water from Weldon Boulevard currently drains.
28

29 Chairman Hawkins commented, I believe you, but it is not a retention pond for
30 Weldon Boulevard.
31

32 Mr. Schindler stated, it is the only retention pond Weldon Boulevard has.
33

34 Chairman Hawkins questioned, even when Weldon Boulevard was four-laned
35 sometime ago?
36

37 Mr. Schindler replied, even when it was four-laned. There was no creation of a
38 retention pond for Weldon Boulevard other than what we have here.
39

40 Chairman Hawkins commented, Mr. Schindler, I just don't think you are treating
41 this properly like you have other parcels in the City. I think -- for whatever
42 reason, it befuddles me why the City is treating this parcel differently when,
43 clearly, it is not a retention pond. It might be a low area, but it clearly isn't, and

1 even though you say it is historically a marshy area, that is obviously not correct
2 and I don't see how you are overlooking that. I know you and I know the City
3 staff and I'm just trying to figure out why you are making an exception.
4

5 Mr. Schindler said, well, the Board needs to – based upon the information
6 presented, the Board needs to take the action that it feels is best.
7

8 Vice Chairman Taylor asked, is there a difference in drainage requirements – I
9 mean, is it required to have some sort of drainage – I mean, why wasn't a
10 retention pond built in when Weldon Boulevard was expanded?
11

12 Mr. Schindler answered, I can't answer that. It was built – the County built –
13 widened Weldon Boulevard, but there is no indication – I mean, there is no
14 retention pond along Weldon Boulevard other than this area.

15 Vice Chairman Taylor questioned, when roads are built by the County, are they
16 required to look at drainage issues?
17

18 Mr. Schindler answered affirmatively.
19

20 Vice Chairman Taylor asked, so, did the County feel that there was sufficient
21 drainage with what was present in this area?
22

23 Mr. Schindler responded, we have looked, but we have not been able to find out
24 what decisions were made at that time. We have looked at both FDOT and the
25 County and we cannot determine why there was no separate drainage for
26 Weldon Boulevard and why they drained to this area.
27

28 Chairman Hawkins questioned, are there gutters on Weldon Boulevard?
29

30 Mr. Schindler replied, there are storm gutters.
31

32 Chairman Hawkins asked, storm gutters go into here?
33

34 Mr. Schindler answered, storm drains go into this area.
35

36 Vice Chairman Taylor questioned, has there been any complaints from citizens
37 or anyone from the County or the City that you know of that has complained that
38 there is a drainage issue in this area, or does it look like this has been serving
39 the area just fine?
40

41 Mr. Schindler responded, as I said, from historic aerials that we have looked at, it
42 appears that this area has a long history of draining – of being a drainage way for
43 that area.

1 Vice Chairman Taylor asked, but have you had complaints that it is insufficient?
2
3 Mr. Schindler replied, no, we have not.
4
5 Vice Chairman Taylor questioned, not even during the hurricanes and all of that?
6
7 Mr. Schindler answered, no, not that I am aware of.
8
9 Member Miller commented, the pines that are in the photograph are outside the
10 stormwater retention area as you can see from the drawing.
11
12 Mr. Schindler stated, yes, you are right. I see that.
13
14 Brief discussion ensued about what surrounds the subject property.
15
16 Member Napier said that he walks through the drainage area next to the subject
17 property two or three times a week and is very familiar with this area. He stated,
18 I would not have guessed there was a retention area back there.
19
20 Mr. Schindler said, it is going to be developed into a retention area as a part of
21 the development of the site. It is what it is now. It is a historical, low area that
22 has had some stormwater drainage.
23
24 Chairman Hawkins asked, doesn't the City require property owners to retain their
25 stormwater runoff? Isn't that a part of the Code?
26
27 Mr. Schindler responded, yes, sir, it is.
28
29 Chairman Hawkins questioned, why are you making an exception?
30
31 Mr. Schindler replied, because it was felt that the – as proposed – would you put
32 up the site plan.
33
34 Mr. Noto complied.
35
36 Mr. Schindler further replied, the house already exists. All that is being added is
37 the small parking area and driveway. It is a very minor addition of impervious
38 area. The improvements to the natural drainage area are such that it is capable
39 of handling the very small additional runoff that will be going into it.
40
41 Chairman Hawkins requested the Applicant to come forward.
42

1 Isadore Hyde, Applicant, 570 Weldon Boulevard, Lake Mary, Florida 32746,
2 came forward in favor of the proposed variance.

3
4 Chairman Hawkins asked Mr. Hyde if he had anything further to add to Mr.
5 Noto's presentation and Mr. Schindler's comments.

6
7 Mr. Hyde answered, nothing to add. I'll field any questions that you guys might
8 have that I can possibly answer.

9
10 Chairman Hawkins stated, well, I guess your site plan shows that you are
11 developing a bank on the northwest corner there where you are eliminating the
12 brick wall.

13
14 Mr. Hyde questioned, you say a bank there?

15 Chairman Hawkins responded, this bank right here (indicating to overhead).

16
17 Mr. Hyde said, sure. Right. Okay. That.

18
19 Chairman Hawkins further stated, when Mr. Schindler says that all of this
20 retention area is contiguous with the lower area over here (indicating to
21 overhead).

22
23 Mr. Hyde said, that is accurate. That double line would be going right through a
24 marshy area or the area that Mr. Schindler described. You can't go through that
25 area.

26
27 Chairman Hawkins asked, when you develop the site, are you creating this
28 bank?

29
30 Mr. Hyde replied, from a layman, I would say no, but maybe my engineer can
31 explain better than me.

32
33 Timothy W. Schutz, P.E., 111 Suffolk Court, Longwood, Florida 32779, came
34 forward in favor of the proposed variance. He stated, I did not do the original
35 engineering design that was approved by the City last year. I am working on the
36 variance application, but what that is is actually from a survey. It is not part of the
37 design to put a berm and then a wall on top of the berm. If you go to the site, you
38 will see that – if you walk along that property line, that the slope that goes down
39 continues past the property line. It is not part of the design to put a slope in
40 there, and I think Steve had mentioned that it was incorrectly shown on the
41 survey.

1 Chairman Hawkins commented, you guys are killing me. He questioned, you
2 haven't redone the survey?
3

4 Mr. Schutz answered, no, sir.
5

6 Chairman Hawkins asked, you are presenting an application with an old survey?
7

8 Mr. Schutz responded, yes, but I have walked the site and verified trees, for
9 instance, and elevations and I think it is pretty accurate, but I know that that pond
10 is not accurate, the shape of it. I know that surrounding areas flow to it, including
11 Weldon Boulevard, and if you were to put a wall all the way across -- you know,
12 you have got to have a flat area and then slopes down, and there is a huge
13 amount of fill that would go in there, and to justify that, you would have to do
14 water management permitting, permitting through the City to even see if it would
15 work and may involve removing trees and wetlands. Who knows. I mean, it
16 could be quite an incredible production to try and put that wall in there. I mean,
17 the thing is the whole place is overgrown. It provides a pretty good barrier itself
18 for -- visually speaking.
19

20 Chairman Hawkins commented, there is no doubt about that, but as far as I am
21 concerned, it doesn't -- if it is completely overgrown, it is not a retention pond.
22 Retention ponds aren't overgrown. Storm water runoff ponds are not overgrown.
23 They are either wet bottom or they are dry bottom.
24

25 Mr. Schutz said, well, this one was designed apparently when Weldon was
26 constructed, and as you can see, there is a pipe under Weldon right there
27 (indicating to overhead) that takes storm water runoff into it, and, you know,
28 whether you call it a retention or a detention pond, it does take storm water runoff
29 from Weldon Boulevard and the surrounding areas and, obviously, very
30 adequately, you know, handles that and you wouldn't want to impact that by
31 having to put fill through the center of this pond. And, may I also add that the
32 Applicant has recognized -- he has taken a look at this wall and he is taking the
33 extra step -- he is shortening this wall, and with the additional monies that he has
34 gotten -- that he will save from shortening the wall, he is taking the step to put in
35 columns that weren't on the original design. At his own expense, he is making
36 the wall much nicer than the originally-approved plans. He has made it look
37 consistent with that wall that is across the street. He wants this to be nice
38 looking. He wants to, you know, conform to the surrounding area. He wants it to
39 be a nice project and I think it will be.
40

41 Member Cartmill questioned, on the original site plan, there wasn't a wall, but on
42 the one that was presented, it pretty much extends through the pole that is right

1 here (indicating to overhead). Is that something we need to address? It says it
2 was just a minor site addition.

3
4 Mr. Schindler replied, no, this is simply a variance, and this is the survey from the
5 site plan. But, no, the only thing before you tonight is the variance for shortening
6 the wall along the west property line.

7
8 Member Cartmill asked, so, that addition, once it does happen, does that affect
9 us at all? Do we need to address it?

10
11 Chairman Hawkins answered, well, I think all of this is old. So, I don't think this
12 part down here (indicating to overhead) matters anymore than this bank up here
13 matters, but the engineer has reproduced a lot of this – like you said, they
14 haven't done a new survey so this is still – this all is still on the new plans and
15 now they have added this (indicating to overhead) to the new plans. So, I guess
16 our question, Mr. Schindler, is the Code requiring this portion of fence be built
17 like the plans before us show it?

18
19 Mr. Schindler responded, yes. The only deviation that we are dealing with
20 tonight is the wall along the west property line. There is the request for a
21 variance from that.

22
23 Chairman Hawkins opened the hearing to public comment. Hearing none, he
24 closed that portion and entertained board discussion and/or a motion.

25
26 Mr. Schindler announced there was a Quasi-Judicial Sign-In Sheet (see
27 attached) located at the back of the chambers for any interested party to sign in
28 order to be kept abreast of this matter.

29
30 Chairman Hawkins commented, I just think that what is before us isn't accurate.

31
32 Member Miller commented, it's a little bit goofy, but it seems like the goofiness
33 must have started with Weldon Boulevard, storm water runoff, with what they did
34 there. And, it looks like what he is doing will not have any negative impact on
35 storm water runoff, the way it is running off now as compared to the way it is
36 going to runoff when he gets through. So, I don't – and he is not doing anything
37 to radically affect the amount of storm water he accumulates on his property. So,
38 it is kind of like, okay, it is not crystal clean and clear like things usually are, but I
39 don't have a problem with it.

40
41 Member Napier asked, for any other site plan, if that retention pond wasn't drawn
42 in there, would there be any discussion or asking about retention water at this
43 point?

1 Chairman Hawkins replied, they have to have a retention pond.

2
3 Member Miller answered, yes.

4
5 Member Napier stated, okay, so, that's where I'm trying to get to. He questioned,
6 is it a retention pond or isn't it? Or, no, it is not a retention pond, it is a storm
7 water runoff area, sheetflow, from what I am hearing. I am just a little confused
8 about – in some way, we are adding to this retention. If it was designed or not
9 designed when the road was originally built, it was built to have a certain amount
10 of retention capacity and in some way, we are adding to that capacity.

11
12 Chairman Hawkins responded, well, as Mr. Schindler said, we are just adding a
13 very minor amount for the driveway down here (indicating to overhead). So, that
14 is all we are really adding and, probably, he is correct that whatever is here
15 existing (indicating to overhead) can handle all this.

16
17 Member Napier asked, is that the standard measures that we are going to have
18 this Board review variances, is what I am concerned with.

19
20 Chairman Hawkins replied, well, this retention pond isn't before us as a variance.
21 If it were and we were granting a variance for this, we would be setting a
22 precedent. So, I don't have a problem with the brick wall stopping there. I just
23 think that the plans ought to accurately reflect what is there because if this
24 engineering plan will state that there is going to be a hill here developed, then so
25 be it. But, if not, then get rid of it from the plan. Leave it historical, as Mr.
26 Schindler wants it.

27
28 Vice Chairman Taylor commented, I agree that the plan should be updated to
29 accurately reflect what is going on, but the way I look at it is this is not a problem
30 that the landowner or the Applicant created. This was created by the County in
31 the way that they chose to handle Weldon Boulevard. So, actually, the
32 landowner is taking on the responsibility for drainage from other sites. If that wall
33 is put up there, you are going to disrupt that flow. You could flood the road or
34 you could flood the neighbor to the west. And, so, that is a bad solution. So,
35 keeping it the way it is – it isn't the responsibility of the Applicant. It is actually
36 the appropriate thing to do, keep it the way it is. It is not a problem that the
37 Applicant created, so he shouldn't be penalized for something that the County
38 chose to do.

39
40 Chairman Hawkins commented, yes, but the County doesn't own this property.
41 Normally, when the County widens a road, they purchase property and they
42 make it a retention pond that they own and they maintain. They haven't done
43 that.

1 Vice Chairman Taylor commented, it looks like they tried to do it on the cheap,
2 but it still would put the burden of the road water displacement on this applicant
3 as opposed to his business' runoff, and I think it would be a problem if we put the
4 wall there or forced him to build a storm retention pond that the County probably
5 should have done in the first place but chose not to. So, I don't really think we
6 should shift that burden to the Applicant. And, I know that is kind of an aside.
7 That is not what is before us. But, I think that is the reasoning behind why
8 sometimes you make a decision to get to the appropriate result.

9
10 Chairman Hawkins questioned whether or not the site plan will be revised.

11
12 Mr. Schutz answered, yeah, we can – I would suggest that we have a surveyor
13 go out and redo the boundary of that – perhaps the original surveyor – the
14 boundary of that retention pond. He reiterated that he looked at the rest of the
15 site and the trees look very consistent with what is out there now, but the pond,
16 for some reason, is not and he did not know why.

17
18 Chairman Hawkins commented, I just think that the plans need to be cleaned up.
19 But, you understand that this property owner (indicating to overhead) has
20 retention for Weldon Boulevard coming through onto his property and flowing
21 from his property onto a neighbor's property, and so there is a certain, I would
22 think, I am not an attorney, but I think there is a certain amount of liability here
23 from allowing the County to flow street runoff onto private property and then onto
24 someone else's private property from him. So, not that this is probably ever
25 going to occur, but 100-year floods are just that. So, I just think somehow this
26 ought to be cleaned up to protect the Applicant, at least accurately represent
27 what is there.

28
29 Mr. Schutz said that he could do that on the plans that he submitted for the
30 variance where he is showing the shortened wall but not on the previously-
31 approved plans because those were not his plans.

32
33 Chairman Hawkins asked, okay, well, Mr. Schindler if this is a site plan that you
34 have approved, then it is an incorrect site plan and it needs to be revised; don't
35 you think?

36
37 Mr. Schindler responded, well, the variance will do that. The variance will amend
38 the plan.

39
40 Chairman Hawkins questioned Mr. Schindler further, so, it is okay if we request
41 that it be resurveyed and the plan redrawn?

42
43 Mr. Schindler replied, you are the Planning and Zoning Board. You may do that.

1 Vice Chairman Taylor asked, the plan in front of you or the original.....

2
3 Chairman Hawkins answered, both the plan in front of us and this plan. They are
4 both drawn from the incorrect survey.

5
6 Member Miller questioned, do you think that is necessary, Gary? Because I
7 heard the opposite from you, that you were saying that...

8
9 Mr. Schindler interjected saying, if the variance is approved, it will supercede the
10 site plan. So, whether or not the plan is revised before it goes to the City
11 Commission, the granting of the variance will, by default, amend the site plan.

12
13 Member Miller asked, but all we do in the variance is change where the brick wall
14 goes; right?

15
16 Mr. Schindler responded, yes, but because it is on the record that it continues to
17 the property to the west and you are going to grant a variance from the wall going
18 through that area because the City understands the need to keep that area open,
19 then, by default, the site plan is amended if the variance is approved.

20
21 Chairman Hawkins questioned, then what is it we are approving?

22
23 Mr. Schindler replied, you are approving the request for a variance.

24
25 Member Miller added, to shorten the brick wall. That is all we are approving, is
26 shortening that brick wall so that it doesn't encroach on the drainage area.

27
28 Mr. Schindler concurred.

29
30 Chairman Hawkins commented, I don't know why you don't want to correct the
31 site plan. In either case, Gary, you are not correcting the site plan.

32
33 Mr. Schindler stated, it is up to you. If you wish to make that a part of the motion,
34 please do.

35
36 **MOTION:**

37
38 **Member Miller moved to recommend approval to the Mayor and City**
39 **Commission the request by Isadore Hyde for a variance from § 157.04**
40 **(Buffer Standards and Requirements), City Code of Ordinances, located at**
41 **570 Weldon Boulevard, Lake Mary, Florida, consistent with staff's two**
42 **Findings of Fact listed in the Staff Report and subject to revising the survey**
43 **and the site plan. Vice Chairman Taylor seconded the motion.**

MARCH 10, 2009-13
PLANNING AND ZONING BOARD

1 Member Miller commented, I am still concerned that we are causing them to go
2 through expense and delay that may or may not be necessary.

3
4 Vice Chairman Taylor commented, I just worry that the visual graphic is really
5 different from what is intended or approved.

6
7 Chairman Hawkins commented, based on the way that it is drawn, there isn't any
8 need for the variance because it shows that there is a bank there. So, if there is a
9 bank, then there should be a wall on top of the bank. So, the need for the variance
10 should be based on the correct effort.

11
12 Member Miller commented, okay.

13
14 Chairman Hawkins questioned Member Miller, you follow me?

15
16 Member Miller replied, I got you.

17
18 Member Cartmill asked, but when the time comes when they do decide to build that
19 south wall, then will that require another variance to the site plan? The one that is
20 showing on the original plan.

21
22 Chairman Hawkins answered, what is up here – all of this needs to be torn up
23 because what we are approving is what was presented with us.

24
25 Member Cartmill questioned, but just the west wall? That is what I have been told.

26
27 Mr. Schindler responded, the west wall is all that is being addressed tonight.

28
29 Member Cartmill asked, but not the new site plan in its entirety? There is a
30 difference.

31
32 Mr. Schutz replied, well, keep in mind that as a part of this variance, we are
33 supplying a much nicer wall and -- the details of a much nicer wall. If you are just
34 saying to shorten it – if you are approving just to shorten it, you are not, at the same
35 time, allowing us to construct the wall that would be consistent with the surrounding
36 area. So, as far as the approved plans that goes on record, we want to be able to
37 go build that wall, a much nicer wall than the one that was approved.

38
39 Chairman Hawkins questioned, the one before us is this (indicating to overhead)?

40
41 Mr. Schutz answered, yes.

42
43 Chairman Hawkins asked, not this (indicating to overhead)?

MARCH 10, 2009-14
PLANNING AND ZONING BOARD

1 Mr. Schutz responded, no. That is the one that is being revised. We were told by
2 staff that we had to extend the wall all the way to end. I specifically asked about
3 that.

4
5 Chairman Hawkins commented, well, then the site plan needs to be redrawn to get
6 rid of this (indicating to overhead) and to add on this (indicating to overhead).

7
8 Mr. Schutz said, well, that is what my plan would effectively do with the update.

9
10 Chairman Hawkins commented, okay. But, your plan still needs further update.

11
12 Mr. Schutz stated, well, the retention pond area.

13
14 Chairman Hawkins commented, yeah. Okay.

15
16 **Chairman Hawkins and Member Napier were opposed to the motion. The**
17 **motion carried 3-2.**

18
19 Mr. Schindler announced that this item will move forward to the April 2, 2009, City
20 Commission meeting.

21
22 C. 2009-RZ-02: Recommendation to the Mayor and City Commission for a change
23 in zoning from C-1 (General Commercial) to DC (Downtown Centre) for property
24 located at 187 E. Crystal Lake Avenue, Lake Mary, Florida; Applicant: Chris
25 Mahnken

26
27 Gary Schindler, City Planner, presented Item C. and the related Staff Report.
28 The colored aerial photograph attached to the Staff Report was on the overhead
29 projector. He said, you have before you the request to rezone the triangular-
30 shaped piece of property that lies on the south side of East Crystal Lake Avenue
31 between the Lake Mary Police Department and Palmetto Avenue railroad
32 crossing. This is a building that has been in place for a number of years, and if
33 you will remember, about two to three years ago they had done some extensive
34 remodeling on the outside. It has greatly improved over the way it used to
35 appear. The area along the rail tracks, this is an area that is proposed for the
36 platforms of the Lake Mary Station; one platform on the north side of the track for
37 the southbound or westbound train and one platform on the east side of the
38 tracks for the northbound train. Mr. Mahnken is proposing – and the platforms
39 are going to be glorified by shelters. They are going to have a two-sided – or,
40 actually, it is going to be an enclosure with a roof. There will be nowhere to get
41 out of the elements; out of the heat, out of the rain. There will be a water
42 fountain but no restrooms and there will be a ticket kiosk. It will be an automatic
43 kiosk. You go put your credit card in and you get your ticket.

MARCH 10, 2009-15
PLANNING AND ZONING BOARD

1
2
3
4
5
6
7
8
9

TAPE 1, SIDE B

10
11
12
13
14
15
16
17
18

Mr. Mahnken is proposing to make this into where you will be able to connect to the platform in addition to having, you know, air conditioning and a place for people to get out of the rain. He is proposing to have a number of shops and/or services there. Food service, you know, nothing extensive, but where you can get a cup of coffee and a muffin, as well as wait in the air-conditioned comfort for the train.

19
20
21
22
23
24
25
26
27
28

Mr. Schindler stated, as such, this is redevelopment. Redevelopment requires that the existing C-2 zoning be changed to Downtown Centre. So, in order for Mr. Mahnken to do any work on this at all to modernize it and change the use of the building, he has to rezone to Downtown Centre. That is per the City's Code of Ordinances. In light of this, the City supports the request to rezone, and if this happens, the site plan will come back to you. Because it is in the Downtown, the final authority will be the City Commission, but it will come back to you for your review and recommendation.

29
30
31
32
33
34
35
36
37
38

Mr. Schindler concluded his presentation by saying that the Findings of Fact listed in the Staff Report, A through D, are determined to provide support for the request to rezone the subject property from C-1 (General Commercial) to DC (Downtown Centre) by establishing consistency and compatibility.

39
40
41
42
43

Chairman Hawkins asked, is part of this building on the right of way?

Mr. Schindler replied, no. Historically, there was a 40-foot-wide easement to CSX. It is his property, but there is an easement over part of his property.

Chairman Hawkins questioned, so, is he going to tear this building down, or is he going to use it?

Mr. Schindler answered, no, he will not. The original building was a rectangle and over the years, the various owners have added onto it. His intent is to tear down or demolish the additions and then build an addition with the floor level that will be the same height as the station, the platform, because if you have ever been out on the site, there is about a four to five feet difference in elevation. The platform is going to be 13 or 14 inches above the tracks, and the top of the grade for the tracks is about four feet above his ground level. So, he is proposing to build – raise the floor level of this addition and will have a handicap ramp inside, as well as stairs, but part of it will remain offices, as are currently used, and part will then be remodeled and rehabbed to accommodate the commuters.

Chairman Hawkins asked, it sounds like a really good plan; doesn't it?

1 Mr. Schindler responded, yes, sir.

2
3 Member Miller questioned, how was it determined where the stations would be?
4 Who determined where that would be?

5
6 Mr. Schindler replied, FDOT. And, this one was very easy. We have a cemetery
7 over here (indicating to overhead), so they couldn't go over here (indicating to
8 overhead) and get parking, and if you go too far to the southwest, and you are on
9 a curve, and you can't have a platform on a curve. In fact, the length of the
10 platform is shortened here in Lake Mary because of the curve. It is shorter than
11 any other station because of the curve.

12
13 Member Miller asked, where is the parking for this?

14
15 Mr. Schindler answered, the parking is going to be in this area (indicating to
16 overhead). Now, at Lake Mary Boulevard, you will notice that the County already
17 has some storm water retention that is existing for Lake Mary Boulevard. That
18 will be expanded to accommodate the runoff for this area, but as I said, there will
19 be a platform on each side. There will be parking. FDOT has purchased the row
20 of houses – all of the houses along the West side of Palmetto and all of those will
21 be demolished. There will be access from here (indicating to overhead) and
22 there will be access from Lake Mary Boulevard. There will not be a median cut
23 on Lake Mary Boulevard. This (indicating to overhead) remains a privately-
24 owned parcel.

25
26 Member Miller questioned, is that where 7-Eleven is?

27
28 Mr. Schindler responded, no, 7-Eleven is here (indicating to overhead). We are
29 working with FDOT to have access to this parcel (indicating to overhead) from
30 the station area because it is not safe to have – it would be certainly safer to
31 have it internally than here (indicating to overhead).

32
33 Member Miller asked, so, you turn on Palmetto to go to parking?

34
35 Mr. Schindler replied, there is also an entrance proposed here (indicating to
36 overhead), right in, right out.

37
38 Member Napier questioned, is that odd-shaped property where the retention is
39 now?

40
41 Mr. Schindler answered affirmatively.
42

1 Member Miller asked, but to get to that building, you have to cross the tracks on
2 foot; right?

3
4 Mr. Schindler responded, yes, yes. However, this is the Walter's Electric
5 property here (indicating to overhead). The City owns it. The City also owns this
6 piece of property here (indicating to overhead). In the long run, we will be
7 looking to do what is commonly called public/private partnership to support what
8 we believe is going to be transit-oriented development, not only this in here
9 (indicating to overhead), but also in the whole area of the station (indicating to
10 overhead).

11
12 Member Napier questioned, on that Crystal Lake right at this property line, it is 25
13 miles an hour. If we start having commuters there, is there some master plan as
14 far as traffic on Crystal Lake and coming down Old Lake Mary?

15
16 Mr. Schindler replied, yes. Now, you know there is only so much that can be
17 done with Old Lake Mary. The City is utilizing federal funds and a study has
18 been done to look at the bypass. Without a doubt, Palmetto is going to become
19 much more important in the long run. Whether or not Palmetto stays here
20 (indicating to overhead) -- it could move here (indicating to overhead), but let's
21 just say there appears to be a lot of -- transit-oriented development is at the
22 starting block and waiting for the gun to come in and impact this area of the
23 Downtown (indicating to overhead).

24
25 Member Miller asked, where is the cemetery on that drawing?

26
27 Mr. Schindler so indicated.

28
29 Member Miller questioned, what is that property next to it?

30
31 Mr. Schindler answered, this is privately-owned (indicating to overhead), and this
32 is the property that you have not seen yet, but you will see for a subdivision.
33 Possibly, if they are smart, they will wait and get onboard with transit-oriented
34 development rather than five or six single-family residences. But, the land use
35 was just changed for this piece of property (indicating to overhead), but you don't
36 see land use. This went to the LPA. But, the zoning is already residential.
37 Steve, what was the zoning for that; R-1A?

38
39 Mr. Noto responded, R-1AA.

40
41 Mr. Schindler said, so, we are looking at 13, 14,000 square-foot lots. And, this
42 piece of property is prime for development.
43

1 Member Miller asked, how many acres is that? The big one?
2

3 Mr. Noto replied, the cemetery is that property, and I believe they own the one
4 right next to it, too, because then there is another property that is owned by Ms.
5 Sweat.
6

7 Mr. Schindler questioned Mr. Noto, well, isn't this (indicating to overhead) the
8 Sweat property? Because here is the property north of – is it Lake or Hollis?
9

10 Mr. Noto answered, it is actually – the Greenleaf property is at the end of High
11 Street.
12

13 Mr. Schindler stated, this is the cemetery (indicating to overhead). This is owned
14 by the City (indicating to overhead). This is the private – and it is, what, 23...
15

16 Mr. Noto interjected responding, I believe it is 22 or 23 acres.
17

18 Mr. Schindler said, High Street is further over, which doesn't show here, and
19 there is a long, skinny piece of property – this piece of property here (indicating
20 to overhead) that we have changed the land use designation on and which could
21 may be proposed for residential.
22

23 Member Miller asked, and the property across the street from the subject
24 property is parking, or what?
25

26 Mr. Schindler replied, that was supposed to be commercial but it will be
27 government use and that will become part of the overall station complex.
28

29 Chairman Hawkins commented, when you said people were going to have to
30 cross the tracks, in south Florida along I-95 they have pedestrian overpasses at
31 all the stations.
32

33 Mr. Schindler said, that is not being anticipated here. There will be at-grade
34 crossing. I am certainly hoping there will be arms that come down when the train
35 is approaching the station. The majority of the parking, as proposed, will be here
36 (indicating to overhead), 300 to 400 vehicles.
37

38 Chairman Hawkins stated, where that large white area is.
39

40 Member Miller questioned, but, if they want to go downtown, they need to get
41 across the tracks somehow?
42

43 Mr. Schindler answered, that's right.

1 Member Miller asked, how will they do that?
2

3 Mr. Schindler responded, well, there will be at least -- from what we understand,
4 there will be one at-grade crossing, or you go down to Palmetto and come back.
5 We are trying to work with FDOT to have at least one at-grade crossing and, if
6 possible, more than one.
7

8 Vice Chairman Taylor questioned, where is light rail in this legislative session? Is
9 it working through, or.....
10

11 Mr. Schindler replied, it appears that it has the support. When the trial lawyers
12 decided they would not oppose it, that pretty much – they weren't coming out to
13 support it, but they said they wouldn't oppose it.
14

15 Member Miller asked, and that's 2010; right?
16

17 Mr. Schindler answered, 2011 at the earliest.
18

19 Chairman Hawkins questioned Mr. Schindler, is the Applicant present?
20

21 Mr. Schindler responded, no, he is not. He was faxed the information and I do
22 not know why he is not here, but I certainly believe that I have accurately
23 represented the situation.
24

25 Chairman Hawkins asked Mr. Schindler, so, you want us to proceed without the
26 Applicant?
27

28 Mr. Schindler replied, yes, sir, if you would.
29

30 Chairman Hawkins opened the hearing to public comment. Hearing none, he
31 closed that portion and entertained board discussion and/or a motion.
32

33 Mr. Schindler announced there was a Quasi-Judicial Sign-In Sheet (see
34 attached) located at the back of the chambers for any interested party to sign in
35 order to be kept abreast of this matter.
36

37 **MOTION:**
38

39 **Vice Chairman Taylor moved to recommend approval to the Mayor and City**
40 **Commission the request by Chris Mahnken for a change in zoning from C-1**
41 **(General Commercial) to DC (Downtown Centre) for property located at 187 E.**
42 **Crystal Lake Avenue, Lake Mary, Florida, consistent with staff's Findings of**

1 **Fact listed in the Staff Report. Member Napier seconded the motion, which**
2 **carried unanimously 5-0.**

3
4 VIII. Community Development Director's Report

5 Gary Schindler, City Planner, on behalf of Juan (John) A. Omana, Jr., Community
6 Development Director, reported that the City has recently gone through a rather dry
7 spell and that he has nothing to report at this time, but that there are several new
8 projects in the works that just came in within the last week.

9 IX. Other Business

10 Member Miller commented that things are looking good with the various Shaw
11 projects that abut City Hall.

12 Member Miller commented that he received a phone call a couple of weeks ago
13 from Federal Trust Bank where they were concerned about their signage and he
14 referred the call to Mr. Omana or Mr. Schindler.

15 Steve Noto, Planner, informed Member Miller that he spoke with Mr. Smiley and
16 staff is in the process of scheduling a meeting with him to see what the City can do
17 to help him out.

18 Member Miller commented on the reaction to the trees being removed by Progress
19 Energy along Rinehart Boulevard. He informed the Board that Progress Energy
20 offered the homeowners associations a plan where they would do that slowly,
21 where they would replace a third of the trees and go ahead and plant things and let
22 it start growing and then replace a third the next year and a third the next year, and
23 the homeowners associations said, no, cut it all down, do it all at once. So, the
24 dramatic change was not Progress Energy, it was the homeowners associations
25 who wanted it done all at once and out of the way.

26 Member Napier suggested the Board get laptops in order to allow the Board to
27 review the agenda packets instead of killing thousands of trees, or suggested staff
28 e-mail the Board Members the information for the meetings.

29 Gary Schindler, City Planner, said that staff could pass that on, but in light of the
30 budget situation, that is probably not going to happen for a couple of years, if at all.

31 Member Napier stated that there are a lot of grants out there for green initiatives
32 that would pay for something like that.

33

1 Mr. Schindler said that any information submitted to staff would really be
2 appreciated.

3 Alternate Schofield suggested that in the interim staff could print on both sides of
4 the paper.

5 Vice Chairman Taylor suggested to have P & Z meetings one Tuesday a month
6 instead of two and get more notice when a meeting is cancelled.

7 Mr. Schindler stated that staff will look into having one meeting a month and get
8 back with the Board at the next meeting. He said that it is possible that the Board
9 could go to one Tuesday a month until such time as staff needs to go more. He
10 stated that staff will try to get the information to the Board as far in advance as
11 possible as to when staff anticipates that we will not have a meeting. He
12 anticipated that the Board will not have a meeting on March 24, 2009.

13 Member Miller questioned the status of the dog park.

14 Mr. Schindler answered, it has barked its last. He referred Member Miller to the
15 Trailblazers since that is not official; that his understanding is that they are thinking
16 about not going forward with it due to opposition, difference of opinion as to the
17 health impacts of the dog feces in lake water, and if indeed there is a health risk,
18 they don't want to go forward with that area since it is prone to flooding.

19 Chairman Hawkins suggested turning one of the softball fields into a dog park.

20 X. Reports of Other Members

21 None

22
23 XI. Adjournment

24
25 The meeting was adjourned at 7:10 p.m.
26
27
28
29

30 _____
31 Dr. Robert Hawkins, Chairman

Diana T. Adams, Administrative
Secretary