

MINUTES OF THE PLANNING COMMISSION MEETING HELD ON AUGUST 12, 2014, AT 5:01 P.M. IN THE CITY COUNCIL CHAMBERS, APOPKA, FLORIDA.

MEMBERS PRESENT: Steve Hooks, Mallory Walters, Melvin Birdsong, James Greene, and Robert Ryan

ABSENT: Ben Dreiling, Teresa Roper, and Orange County Public Schools (Non-voting)

OTHERS PRESENT: R. Jay Davoll, P.E. – Community Development Director/City Engineer, David Moon, AICP - Planning Manager, Darcy Unroe, Tony Capley, Karen Valiente, Victor Valiente, Bill Carpenter, Ed Velazquez, Sam Sebaali, Rick Abt, Suzanne Kidd, and Jeanne Green – Community Development Department Office Manager/Recording Secretary.

OPENING AND INVOCATION: Chairperson Hooks called the meeting to order and asked for a moment of silent meditation. The Pledge of Allegiance followed.

APPROVAL OF MINUTES: Chairperson Hooks asked if there were any corrections or additions to the July 8, 2014 minutes. With no one having any corrections or additions, he asked for a motion to approve the minutes of the Planning Commission meeting held July 8, 2014.

Motion: **Melvin Birdsong made a motion to approve the Planning Commission minutes from the July 8, 2014 meeting, and James Greene seconded the motion. Aye votes were cast by Steve Hooks, Mallory Walters, Melvin Birdsong, James Greene, and Robert Ryan (5-0).**

VARIANCE – LOAVES AND FISHES, INC. – David Moon, Planning Manager, stated this is a request for approval of a variance to allow to a variance to allow proposed building addition to encroach up to five (5) feet into the required twenty-five (25) feet front and corner yard setbacks. The owner is Loaves and Fishes, Inc., c/o Karen Valiente. The engineering firm is Unroe Engineering, Inc., c/o Darcy Unroe P.E. The property is located at 206 East 6th Street at the corner of Robinson Avenue. The future land use is Industrial and the zoning is I-1. The existing and proposed use is a public food pantry. The tract size is 0.48 +/- acres. The staff report and its findings are to be incorporated into and made a part of the minutes.

The applicant requests up to a five (5) foot reduction in the required twenty-five (25) feet front and corner yard setbacks, creating a twenty (20) feet setback. The applicant is proposing to construct an additional 720 square feet of storage space on to the existing food pantry. As appearing in the Redevelopment Plan, the proposed 20' x 36' storage room will encroach 2.6 feet into the required twenty-five (25) foot front yard setback along East 8th Street and 4.9 feet into the twenty-five (25) foot corner yard setback along Robinson Avenue. If approved and constructed per the Redevelopment Plan, the variance will leave a 21.4 foot building setback along East 8th Street and a 20.1 foot building setback along Robinson Avenue.

Applicable City Code: City of Apopka, Code of Ordinances, Part III - Land Development Code, Article II, Section 2.02.01.A., Minimum front setback of 25 feet and corner lot setback of 25 feet, and Section 2.02.15.F.: All yards adjacent to road right-of-ways shall be a minimum of 25 feet.

Applicant's Response to Seven Variance Criteria: When evaluating a variance application, the Planning Commission shall not vary from the requirements of the code unless it makes a positive finding, based on substantial competent evidence on each of the following:

1. There are practical difficulties in carrying out the strict letter of the regulation [in] that the requested variance relates to a hardship due to characteristics of the land and not solely on the needs of the owner.

Applicant Response: The lot is triangular in shape with an existing warehouse building that encroaches into the front setback. The strict implementation of the setback would result in an oddly shaped front facade and would restrict the ability of the non-profit from serving the needs of the community.

Staff Response: DRC finds that a valid hardship occurs and does not object to the Applicant's Response. The south property line abuts CSX/FCEN railroad right-of-way, preventing an ability to

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acquire additional contiguous land to the south. Further, the West Orange Trail abuts the western boundary of the subject property and public streets to the north and east, preventing an ability to acquire additional contiguous land to the west. The existing building already encroaches into the front setback along East 8th Street by 2.6 feet, and the building addition will not extend beyond the front of the existing building wall that faces East 8th Street by more than that which already occurs for the existing building. Encroachment of the front or corner setback, as proposed, does not create an unacceptable line-of-sight at the corner of East 8th Street and Robinson Avenue.

2. The variance request is not based exclusively upon a desire to reduce the cost of developing the site.

Applicant's Response: No reduction in cost is anticipated with the granting of this variance.

Staff Response: A hardship is created by the odd triangular shape of the lot, inability to expand land area to the south because of the CSX/FCEN railroad right-of-way. DRC does not object to the Applicant's Response.

3. The proposed variance will not substantially increase congestion on surrounding public streets.

Applicant's Response: The proposed construction will only minimally increase the traffic on adjacent streets. The granting of the variance will have no effect on the amount of additional traffic generated.

Staff Response: DRC does not object to the Applicant's Response.

4. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site.

Applicant's Response: The front facade of the proposed addition will match the facade of the existing building on-site. The proposed variance will match the existing conditions of the site.

Staff Response: DRC does not object to the Applicant's Response. Expansion of the existing building and the proposed variance will not interfere with the ability of abutting property owners to use their property.

5. The effect of the proposed variance is in harmony with the general intent of this code and the specific intent of the relevant subject area(s) of the code.

Applicant's Response: The proposed development will save a stand of oak trees along the southern side of the property, which will accomplish the desired effect while allowing for a compact development of the property.

Staff Response: The subject property is assigned an I-1 Industrial zoning category. Properties to the east, west, and south are assigned the I-1 zoning category and the properties to the north A C-1 Commercial category. DRC does not object to the Applicant's Response.

6. Special conditions and circumstances do not result from the actions of the applicant.

Applicant's Response: **The existing building was constructed before the current owner purchased the property.**

Staff Response: DRC finds that a valid hardship occurs and does not object to the Applicant's Response. The south property line abuts CSX/FCEN railroad right-of-way, preventing an ability to acquire additional land to the south. The existing building already encroaches into the front setback along East 8th Street. Expansion of the existing building does not encroach into the front setback along East 8th Street by more than that which already occurs for the existing building.

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7. That the variance granted is the minimum variance which will make possible the reasonable use of the land, building or structure. The proposed variance will not create safety hazards and other detriments to the public.

Applicant's Response: The developer is requesting to match the existing front façade.

Staff Response: The front building wall will not encroach into the front setback by more than which is already encroached by the existing building – 2.6 feet. Along Robinson Avenue, the building wall will encroach into the corner setback by 4.9 feet. DRC does not object to the Applicant's Response for the front building encroachment. The existing building wall facing Robinson Avenue currently complies with the corner lot setback of 25 feet. A proposed building addition creates the variance situation.

The Development Review Committee finds that a valid hardship exists and does not object to the variance request to allow the proposed building addition to encroach 3.6 feet into the twenty five (25) foot front setback and bufferyard, and 4.9 feet into the twenty five foot front setback and bufferyard.

As per the Land Development Code, Article XI - 11.05.00.A. - The Planning Commission has been established as a citizen board to review and approve variances. Therefore, the Planning Commission may authorize the approval of a variance to Sections 2.02.01.A. and 2.02.15.F., of the Land Development Code, to allow a 3.6 foot encroachment into the twenty five foot front yard setback and a 4.9 foot encroachment into the twenty five foot corner yard setback, subject to DRC approval of the Redevelopment Plan.

This item is considered quasi-judicial. The staff report and its findings are to be incorporated into and made a part of the minutes of this meeting.

In response to a question by Chairperson Hooks, Mr. Moon stated that the proposed front setback encroachment is 2.6 feet. The 3.6 feet indicated in the staff report is a scrivener's error.

Chairperson Hooks opened the meeting for public hearing. With no one wishing to speak, Chairperson Hooks closed the public hearing.

Motion: James Greene made a motion to approve the request for variance to allow up to a 3.6 foot encroachment into the twenty five foot front yard setback and a 4.9 foot encroachment into the twenty five foot corner yard setback for a proposed building addition on the property located at 206 East 6th Street and owned by Loaves and Fishes, Inc., c/o Karen Valiente., subject to the information and findings in the staff report, and Melvin Birdsong seconded the motion. Aye votes were cast by Steve Hooks, Mallory Walters, Melvin Birdsong, James Greene, and Robert Ryan (5-0).

FINAL DEVELOPMENT PLAN – TACO BELL – 1429 WEST ORANGE BLOSSOM TRAIL – Jay Davoll, P.E., Community Development Director/City Engineer, stated this is a request to recommend approval of the Final Development Plan for the Taco Bell to be located at 1429 West Orange Blossom Trail. The owner is Cobblestone Partners, LLC. The applicant/engineering firm is Florida Engineering Group, Inc., c/o Samir J. Sebaali, P.E. The existing use is a commercial building and the proposed use will be a drive-thru restaurant. The future land use is Commercial and the zoning is C-2. The tract size is 1.00 +/- acres. The proposed building size is 2,263 sq. ft. The staff report and its findings are to be incorporated into and made a part of the minutes of this meeting.

The Taco Bell - 1429 West Orange Blossom Trail - Final Development Plan proposes a 2,263 square foot restaurant with a drive-thru facility. A preliminary development plan is not required for projects less than 10,000 square feet. Access to the site will occur from a driveway connecting directly with Old Dixie Highway and from cross access easement connecting to West Orange Blossom Trail through a driveway shared with a RaceTrac convenience store/gas station.

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The site will be served by City water and sewer. The stormwater run-off and drainage will be accommodated by an underground infiltration storage chamber. The on-site stormwater management system is designed according to standards set forth in the Land Development Code.

The site has a standard five (5) foot wide side-yard landscape buffer with a ten (10) foot wide landscape buffer along Orange Blossom Trail and Old Dixie Highway. The applicant has provided a detailed landscape and irrigation plan for the property. The planting materials and irrigation system design are consistent with the water-efficient landscape standards set forth in Ordinance No. 2069. There is no tree bank mitigation fee payment required for this site.

Total inches on-site:	164
Total inches removed:	164
Total inches replaced:	153
Tree stock formula calculation:	152.5
Tree inches deficient:	0

A total of 30 parking spaces are provided, of which two are handicapped parking space. There are two ingress/egress points to the site; the primary entrance is from West Orange Blossom Trail a.k.a. (U.S. HWY 441) through cross access easement and shared driveway with RaceTrac and from a secondary entrance located along Old Dixie Hwy.

Design of the building exterior meets the intent of the City’s Development Design Guidelines.

The monument sign complies with sign code and is located in the front yard buffer abutting Orange Blossom Trail. Landscape plan shows that the landscaping is designed to create a view corridor for visibility from Orange Blossom Trail. Based on the sign code, a secondary monument side is allowed if a business accesses two roadways. A secondary monument sign is not proposed within the site plan. Any future addition of a secondary monument sign will require approval through a sign permit. One menu board sign is permitted per drive-thru lane or drive-in station. No other commercial or promotional signs, including snipe-type signs, shall be located along the drive-thru lanes. The proposed wall signs and menu board are consistent with the City’s sign code and must receive sign permits from the City prior to installation.

Waiver Request: The applicant is requesting a waiver from section 6.06.00(c)5 of the Land Development Code and the city approved Dumpster Enclosure Detail - Figure (601), which requires the use of brick or stone cap block on the exterior walls of dumpster enclosure.

Response: The applicant is proposing to use building materials compatible with the exterior of the building. The dumpster enclosure materials will consist of a decorative stone base with stucco walls. Details of the dumpster and building elevation are provided with the supporting information containing in the agenda package.

- **Staff does not object to this waiver request.**

The Development Review Committee recommends approval of the Taco Bell Restaurant – 1429 West Orange Blossom Trail Final Development Plan and does not object to the waiver request, subject to the findings of this staff report.

This item is considered quasi-judicial. The staff report and its findings are to be incorporated into and made a part of the minutes of this meeting.

Chairperson Hooks opened the meeting for public hearing.

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Sam J. Sebaali, Florida Engineering Group, 5127 S. Orange Avenue, Suite 200, Orlando, Florida 32809, introduced himself as the engineer for the project and that he was available to answer any questions.

In response to a question by Chairperson Hooks, Mr. Sebaali indicated that arches are not included in the design of the building.

In response to questions by Ms. Walters, Mr. Sebaali stated they have designed calming devices, such as speed bumps, in the internal driveway to deter cut-through traffic from the adjacent RaceTrac to Old Dixie Highway.

Mr. Davoll added that a traffic study had been conducted for the project and that study indicated speed bumps would be adequate to deter any cut-through traffic on the site.

With no one else wishing to speak, Chairperson Hooks closed the public hearing.

Motion: Mallory Walters made a motion to recommend approval of the Ladybird Academy of Apopka Final Development Plan and the waiver request to allow the applicant to use building materials compatible with the exterior of the building and consisting of a decorative stone base with stucco walls for the dumpster enclosure subject to the information and findings in the staff report. James Greene seconded the motion. Aye votes were cast by Steve Hooks, Mallory Walters, Melvin Birdsong, James Greene, and Robert Ryan (5-0).

OLD BUSINESS:

Planning Commission: None.

Public: None.

NEW BUSINESS:

Planning Commission: None.

Public: None.

ADJOURNMENT: The meeting was adjourned at 5:15 p.m.

/s/

Steve Hooks, Chairperson

/s/

R. Jay Davoll, P.E.
Community Development Director