

**CITY OF WINTER PARK
REGULAR MEETING OF THE CITY COMMISSION
July 23, 2007**

The meeting of the Winter Park City Commission was called to order by Mayor David Strong at 3:30 p.m. in the Commission Chambers, 401 Park Avenue South, Winter Park, Florida.

The invocation was given by Reverend Dr. Cuthill – Winter Park Presbyterian Church, followed by the Pledge of Allegiance.

Members present:

Mayor David Strong
Commissioner Douglas Metcalf
Commissioner John Eckbert
Commissioner Margie Bridges
Commissioner Karen Diebel

Also present:

City Attorney Trippe Cheek
City Manager James Williams
City Clerk Cynthia Bonham

Mayor's Report:

a) Presentation of check by Mr. Kenneth Murrah for the purchase of trees

Mr. Kenneth Murrah presented Mayor Strong with a \$1,000 check for planting of trees.

b) Central Park update

Mayor Strong provided an update regarding the Carlisle property and payments made, grant opportunities, the \$2 million raised from private sources toward the \$2.7 million owed to the Central Park Station Partners by September 15, he revised the goal to raise another million dollars to pay the additional \$700,000 payment and the lease obligations for the temporary post office and it's removal.

He announced a scheduled press conference in Central Park on Thursday, July 26, at 9:00 a.m. to outline the possibilities for the park, financing opportunities for the park, to release names of others who have contributed and to answer questions. He stated if they accept these contributions from the public to pay the City's obligation that the City needs to be prepared to construct a post office. He asked the Commission to think about this for the next work session on July 30 so they can discuss where the post office can be located and how much it will cost.

Mayor Strong addressed an upcoming meeting with the post office associates on August 27 at 2:00 p.m. at City Hall and that he has no objection of this being a public meeting. He asked that this meeting be noticed. He suggested that they have a few alternatives sites, have someone lay them out, or have Planning explain if they have enough space for the various sites they are contemplating at the next work session. Commissioner Metcalf commented that he spoke with the post office representative and she would like to see a site plan of the building to include parking.

c) Discussion of RFQ recommended by the Architectural Task Force.

Building Director George Wiggins addressed this item that concerned the RFQ for Planning Architectural Design Services for guidelines for the commercial corridors of the City. He explained that this includes a visioning process and the preparation of the prescriptive codes that would give the development community and citizens an accurate view of what can be built

within the commercial areas of the City. Commissioner Eckbert asked if weighting was included on the evaluation matrix. Mr. Wiggins explained it is not included as currently outlined but they can take it up with the task force and provide weighting to the eight areas of evaluation.

Mayor Strong stated that he would like the top three ranked proposals presented to the Commission as well as the task force. There was a consensus. Mayor Strong appointed Commissioner Eckbert as the Commission representative on the RFQ Selection Committee. There was a consensus and Commissioner Eckbert accepted the appointment.

Citizen's Budget Comments:

1. Randy Robertson, 1350 College Point, and member of WMFE (Central Florida's voice for public broadcasting, radio and television) Board of Trustees, addressed a \$10,000 grant request to begin a partnership with the City along with other communities in Central Florida to create a voice for cultural offerings as well as public affairs. Jose Fajardo, CEO and President of WMFE, spoke about programs that will affect the City.

2. Nancy Shutts, 2010 Brandywine Avenue, asked that the remaining contingency be allocated for Azalea Lane for benches, tables and to fix concrete slab. She stated the playground is also outdated and it should be replaced with a state-of-the-art playground.

Mayor Strong suggested that Director of Parks and Recreation John Holland review the budget for Azalea Lane and Lake Island Park and decide what needs to be done in terms of dollars and then work on organizing public participation. Mayor Strong asked him to distribute his findings to the Commission once this has been completed. Mr. Holland agreed.

Action Items:

- a) Approve the minutes of 7/9/07.
- b) Approve the following purchase:
 - 1) PR 133901 to Nortrax for the purchase of an asphalt roller, piggy-backing HGACBuy Term Contract; \$65,285.00 (Budget: Vehicle/Equipment Replacement Fund).
- c) Approve the following budget adjustment: To transfer the remaining General Fund contingency balance of \$148,633 plus \$100,000 of money budgeted for other visioning studies to an account for an Architectural Review Board Visioning Study. **PULLED FOR DISCUSSION. SEE BELOW.**
- d) Approval of the revised Central Park use guidelines.
- e) Approval of the request of the Welbourne Day Nursery to waive the fee for use of the Civic Center for their annual dinner.
- f) Decide whether to expend \$20,000 for the purchase of dehumidifiers to maintain the State Office Building. **PULLED FOR DISCUSSION. SEE BELOW.**
- g) Set the tentative millage cap for the 2007/2008 budget year. **PULLED FOR DISCUSSION. SEE BELOW.**

Motion made by Commissioner Eckbert to approve Action Items a, b, d, and e without discussion; seconded by Commissioner Metcalf and carried unanimously.

Action items c, f and g were pulled from the Action Item list for discussion and voted on separately.

Action Item # c: Approve the following budget adjustment: To transfer the remaining General Fund contingency balance of \$148,633 plus \$100,000 of money budgeted for other visioning studies to an account for an Architectural Review Board Visioning Study.

Mayor Strong commented he did not want to use up the contingency balance because of other possible items they may need it for and he wanted to get the Architectural Review Board Visioning Study for less funding. City Manager Williams stated they can wait and decide how much should be placed in the budget. There was a consensus. Mayor Strong explained that they were not agreeing to fund the remaining contingency balance from this year's budget to this item yet but that the \$100,000 is in the budget that they have to approve. Mr. Williams explained this is in the existing budget for visioning. There was a consensus to approve the \$100,000 for this particular visioning study.

Action Item # f: Decide whether to expend \$20,000 for the purchase of dehumidifiers to maintain the State Office Building.

City Engineer Don Marcotte explained the need for dehumidifiers at the State Office Building to preserve the building and to control mold and mildew. He addressed the building continuing to decline without dehumidifiers. Commissioner Metcalf stated they need to purchase them.

Motion made by Commissioner Metcalf to spend \$20,000 to purchase the dehumidifiers and try to preserve the State Office Building; seconded by Commissioner Bridges and carried unanimously.

Action Item # g: Set the tentative millage cap for the 2007/2008 budget year.

Finance Director Wes Hamil addressed the need to set the millage cap and to submit it to the Property Appraiser by August 3, 2007. He stated this millage rate is used to calculate the TRIM notices to all property owners in Winter Park. He explained that following the State's guideline which requires a 9% reduction from our roll back rate, leaves a millage rate of 4.0123 mills. Mr. Hamil commented if they want to give themselves more contingency through property tax revenue they can increase the 4.0123 mills up to 4.4091 mills which would be the roll back rate. He stated that once the millage cap is set it can go down but it cannot go back up. Mr. Hamil answered questions.

Motion made by Commissioner Metcalf to approve the roll back rate of 4.4091 mills; seconded by Commissioner Bridges. Upon a roll call vote, Mayor Strong and Commissioners Bridges, Metcalf and Diebel voted yes. Commissioner Eckbert voted no. The motion carried with a 4-1 vote.

Public Hearings:

- a) ORDINANCE NO. 2717-07: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, AMENDING THE ELECTION DATE FOR THE 2008 CITY GENERAL ELECTION TO JANUARY 29, 2008; CHANGING THE PRIMARY ELECTION DATE FOR THE 2008 CITY ELECTION; DESIGNATING THE DATES FOR QUALIFYING FOR THE 2008 CITY GENERAL ELECTION; AUTHORIZING THE CANVASSING OF BALLOTS FOR THE 2008 CITY GENERAL ELECTION; PROVIDING FOR NOTICE TO THE SUPERVISOR OF ELECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE. Second Reading

Attorney Cheek read the ordinance by title. Upon questioning by Commissioner Bridges concerning the amendment to the Charter to deal with the disparity of the January 29 election date and installation of new officer in March, Attorney Cheek responded. Commissioner Bridges stated it was not in the best interest of the citizens to have a two month period between the time of the election and the swearing in and did not serve the citizens in terms of the political process such as availing themselves of all the information pertinent to an election in the City. No public comments were made.

Motion by Commissioner Bridges to deny the ordinance. Motion failed for lack of a second.

Motion made by Commissioner Metcalf to adopt the ordinance; seconded by Commissioner Eckbert. Upon a roll call vote, Mayor Strong and Commissioners Eckbert, Metcalf and Diebel voted yes; Commissioner Bridges voted no. The motion carried with a 4-1 vote.

- b) RESOLUTION NO. 1979-07: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK SUPPORTING THE NOMINATION OF THE CITY OF WINTER PARK COMMUNITY LAND TRUST CANTON PARK REDEVELOPMENT PROJECT FOR THE FLORIDA LEAGUE OF CITIES' CITY SPIRIT AWARD.

Attorney Cheek read the resolution by title.

Mary Daniels, 650 Canton Avenue, member of the Hannibal Square Community Land Trust, stated that it was an honor to be recognized for this award. No other public comments were made.

Commissioner Metcalf asked City Manager Williams to schedule a future presentation by Ms. Daniels or Mr. Barley about the Community Land Trust regarding the status of the million dollars. Mr. Williams agreed to schedule this for an upcoming meeting.

Motion made by Commissioner Metcalf to adopt the resolution, seconded by Commissioner Diebel. Upon a roll call vote, Mayor Strong and Commissioners Bridges, Eckbert, Metcalf and Diebel voted yes. The motion carried unanimously with a 5-0 vote.

- c) Adoption of the Comprehensive Plan.

Attorney Cheek presented an ordinance for adoption of the comprehensive plan and read it by title. Planning Director Jeff Briggs explained the ordinance is a first reading and there will be a second reading and final adoption in three weeks if the first reading passes. He stated they hope the Commission provides direction on some of the policy issues later in the presentation. Commission discussion and comments were made regarding the absence of an entire plan to review and being in an unacceptable form to some residents. Mr. Briggs stated there is an entire plan but it is difficult to convey the hundreds of pages in the goals, objectives and policies in the data. He added that all changes to the plan have been posted on the website as they occur and that the plan has been there in its current form for the last 5 weeks.

Commissioner Metcalf expressed his preference to move forward this evening. Commissioners Eckbert and Bridges spoke about the process being flawed and thought a summary should have been provided and wanted to know the process staff went through to revise it. Mr. Briggs explained the process that this could not be brought to the Commission until the Planning and

Zoning Commission addressed it so they could not have done a process of meeting with the Commission at the same time the P&Z was reviewing and changing it. He stated the P&Z is entitled to make a recommendation on the adoption and to recommend changes different from what was transmitted to the DCA which they have done in some instances. He stated they have gotten through the P&Z process. He summarized the work sessions and community forums.

Mayor Strong stated he would have liked for this evening's discussion to be limited to the Objections, Recommendations and Comments (ORC) Report issues but there are other issues beyond those. He was willing to review what has been done to date with the plan this evening but was opposed to substantive changes. Mr. Briggs clarified the Commission's preference of meeting and before the second reading to seek professional input (Canin and Associates).

Planning Director Briggs and Planner Stacey Scowden provided a power point presentation regarding the history of the comprehensive plan adoptions, progress to date, concurrency, and balance in the comprehensive plan with pro/slow growth (height map, limiting density of C-3/O-1 to R-3, limit the intensity to the Central Business District, growth on W. Fairbanks Avenue, the Home Acres annexation and addition of a proposed mixed use forum). He addressed the timeline for the objections, recommendations and comments from the DCA regarding the ORC report. He stated they will be adopting the goals, objectives and policies and addressed the public participation throughout the process from the beginning, the public forums and the public hearings of the Planning and Zoning Commission. He reviewed the areas that were clarified and modified within the comprehensive plan policy (such as population projections, CRA plan, mixed use, affordable/workforce definitions, etc.) and the addition of three P&Z recommendations that the Commission needs to deal with. He stated he would like to know this evening if there is interest in discussing the P&Z recommended changes. There were no questions by the Commission at this time.

A recess taken from 5:43 – 5:55 p.m.

The following spoke concerning the adoption of the comprehensive plan. Written comments submitted to the Clerk have been made a part of these minutes.

Michael Gay, 2701 Phillips Park Court, Winter Park Economic Development Advisory Board
Sheryl Bower, Canin Associates, 500 Delaney Avenue, Orlando
Michael Harbison, 2150 Forrest Road, Winter Park Economic Development Advisory Board
Valerie Hubbard, representing 250 Park Avenue Trustee (Mr. Battaglia)
Cecelia Bonifay, Akerman Senterfitt Attorney at Law
William Battaglia, 300 S. Interlachen Avenue
Neil Frazee, 371 E. Reading Way
Richard Unger, 301 Beckett Court, (certified planner) representing an undisclosed resident
April Kirsheman, representing Venetian LLC, 531 W. Morse; WFG Limited, 631 W. Morse and 171 N. Pennsylvania Avenue; TGG, 301 W. New England Avenue; and Garment Limited, 298 W. New England Avenue
Will Graves, 3048D George Mason Avenue (non-resident)
Carolyn Cooper, 1047 McKean Circle
Steve Feller, 126 Park Avenue S., architect
Beth Dillaha, 1801 Forrest Road
Cathy Karunaratne, 750 Green Oaks Court
Becky Furman, 1355 Pelham Road
Vicki Krueger, 200 Carolina Avenue, #201
Hal Kantor, Attorney

Patty Heidrich, 1112 Schultz Avenue
Marc Hagle, 1220 Park Avenue N.
Kim Allen, 271 Virginia Drive

Attorney Cheek addressed the first reading of the ordinance and the appropriateness of making changes to the comprehensive plan already transmitted to Tallahassee. He spoke about the lack of prohibition in the law but that making substantive policy changes can be risky at this stage in the process. Mayor Strong stated there are issues that need to be reviewed at a work session and then determine where the Commission stands on each issue. Discussion ensued regarding the issues that Mr. Briggs shared regarding the three P&Z recommendations brought forward for changing after the transmittal to the DCA and the mixed use issue. Commissioner Bridges asked Mr. Briggs to provide before the work session, visual displays of what the changes to the mixed use, FAR's, etc. would actually look like. Mr. Briggs responded about the requirement to put limits on density, intensity (FAR) and land use categories so numbers must be included in the comprehensive plan which cannot be sunset and will not please all parties involved. He stated the Commission needs to make decisions on these numbers.

Commissioner Eckbert commented against including parking garages in the FAR. He asked about the procedure if he supported this as a change to the current written document and if that would be a significant change. Mr. Briggs stated that is a significant change to the numbers. Mayor Strong stated his preference of responding to the ORC and nothing else. Mr. Briggs stated he can distinguish for the Commission what they submitted to the DCA, what the ORC said, and what the City is saying in response to the ORC and limit the response that. There was further discussion regarding the P&Z recommended changes, the mixed use issue, and other issues needing further discussion at the July 30 work session with the help of Canin and Associates. There was also a consensus to schedule a second work session on Thursday, August 9 from 1:00-5:00.

Commissioner Diebel clarified what they will consider at the work session to include having a outline of the differences between the ORC report and what has been inserted into the plan above and beyond those recommendations. Commissioner Eckbert stated they need to reach consensus about the issues that the City needs to provide notice for at the next public meeting on August 13. Attorney Cheek stated we need a document outlining what was transmitted, a list of the ORC changes, what was changed in respective of the ORC comments, and other suggested changes. Mayor Strong stated he believed there are other changes that are within this response that he did not believe were raised by the ORC. Attorney Cheek stated they need to know what all the changes were and that maybe Mr. Briggs could categorize which items are ORC. Mr. Briggs stated he can do this but it cannot be done for the Monday meeting. It was clarified that the Commission is only concerned with the substantive changes.

Upon discussion, Mr. Briggs summarized how to approach this for the upcoming work session. He spoke about utilizing Canin and Associates to help with this. Ms. Bower of Canin and Associates clarified what she believed the Commission wanted them to do to review the comprehensive plan in regards to a form based code and see if there is anything in the plan that would be inconsistent with doing a form based code. There was further clarification as to what the Commission is looking for in time for the work sessions. Mayor Strong spoke about the number of ORC objections but that some do not need discussion and that they only need to address the State comments from the ORC which consists of the top ten on the list. Mr. Briggs agreed.

The P&Z recommendations not included in the transmittal document was addressed. Commissioner Diebel asked if the Commission wanted to discuss these as they move forward. Mayor Strong stated there are issues requiring discussion but not in response to the ORC. Commissioner Bridges addressed the report previously provided by Canin and Associates and asked if the report the Commission is asking them to provide now differs substantially from the other report. Peter Gottfried, 1841 Carolee Lane, Canin and Associates, stated they helped Mr. Briggs reformat the future land use element to make more sense and more readable and that the Commission probably received the reformatted future land use element with suggested changes in it; they then prepared an itemized list of what they believed the Commission should do in the comprehensive plan. He stated they stand by that.

Mr. Briggs voiced what he understood the Commission was asking for: to settle the mixed use numbers on July 30, and address at the August 9 work session the top 10 changes that were made because of the ORC and any other changes staff made for any other reason and the Canin analysis; and they are not going to review any of the proposed P&Z changes until the next round of amendments in November. Commissioner Eckbert stated he would like to see the information, including calculations, prepared by the various boards and citizens forwarded to Canin.

Motion made by Commissioner Metcalf to table the ordinance until the meeting of August 13, seconded by Commissioner Bridges. Upon a roll call vote, Mayor Strong and Commissioners Bridges, Eckbert, Metcalf and Diebel voted yes. The motion carried unanimously with a 5-0 vote.

City Attorney's Report:

Attorney Cheek updated the Commission on the master interlocal agreement being negotiated between the four counties, City of Orlando and FDOT. He stated he will bring this back to the meeting sometime in August.

Non-Action Items:

- a) Central Business District parking update.

No presentation was provided and there were no questions of the Commission for Mr. Weston, Economic Development.

New Business (Public):

1. Patricia McDonald, 2348 Summerfield Road, asked for clarification of the upcoming work sessions regarding the comprehensive plan and what is going to be discussed at those sessions. Mayor Strong responded that he would like to respond only to the ORC issues but did not know when they will address the citizen and P&Z comments.

2. Carolyn Cooper, 1047 McKean Circle, stated the Commission should not only focus on the ORC. She addressed transmittal procedures that came in the ORC and about mixed use not being included in the transmitted document.

New Business (City Commission):

No new business.

The meeting adjourned at 8:27 p.m.

ATTEST:

Mayor David C. Strong

City Clerk Cynthia Bonham



Winter Park Economic Development Advisory Board

Read into the
Records -
Michael Gay
7-23-07

EDAB Recommendation for Action to the City Commission

July 12, 2007

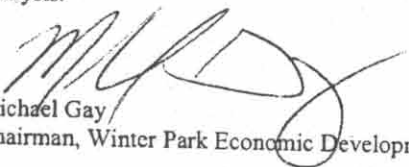
By unanimous vote, the Winter Park Economic Development Advisory Board recommends that a full economic analysis of the FAR (Floor Area Ratio) in the Future Land Use portion of the proposed Comprehensive Plan be completed prior to the Plan being adopted.

As you know, the Winter Park Economic Development Advisory Board is tasked with reviewing the Comprehensive Plan as it pertains to economic development (RESOLUTION NO 1766-01). In such capacity, we would like to inform you of our concerns related to the currently proposed FAR percentages. In particular, we regret that an economic analysis of the impact on future redevelopment of the proposed FAR has not been part of the planning process to date. We believe that the proposed FAR, especially the inclusion of parking structures in the calculation, will have a chilling effect on appropriate and desirable redevelopment along our commercial corridors. We strongly recommend that the City complete an analysis, by an impartial, professional, independent planner, of the impact that the proposed FAR will have on quality development in Winter Park prior to adoption of the Comprehensive Plan and Land Use Codes.

We believe that sufficient FAR that encourages reasonable structured parking, specific for each sector of the community, is necessary to promote high quality commercial redevelopment with viable green space. No consideration has been made of land and construction costs or the difference in creating Class A buildings vs. the Class C buildings that now make up the majority of our commercial inventory. Further, we believe that the FAR, as currently proposed, will act as a moratorium or promote large ground parking areas and strip centers.

In an effort to assure that proposed new requirements do not unduly discourage desirable urban development in Winter Park, the analysis should include a comparison of the proposed requirements (i.e. FAR and treatment of structured parking facilities) against: (a) development requirements adopted by other cities; (b) standards established by governmental and industry organizations (i.e. Urban Land Institute); and (c) existing buildings in Winter Park.

The mission of the EDAB is to guide the City on enhancement and growth of our commercial tax base. We believe that this analysis is necessary so that our new Comprehensive Plan will promote a healthy, vibrant economy and provide for the economic diversity and sustainability of the city. Without this analysis, the EDAB cannot intelligently make a recommendation about the Comprehensive Plan and will be effectively prohibited from performing one of the functions for which it was created. We are confident that the City Commission will support the EDAB in performing one of its most important functions by providing this analysis.


Michael Gay
Chairman, Winter Park Economic Development Advisory Board

7/23/07

Kim Allen
Comp PLAN Public Hearing

January 2007 Resident Survey –

“Improving traffic flow through the city (78%)” is top initiative

April 2005 – Metroplan/UCF Public Survey –

“Transportation issues remain important”

“Public is generally dissatisfied with existing congestion levels”

“75% say – ensure that new development does not increase traffic congestion”

Winter Park 1991 Comp Plan –

“Guaranteed LOS of C for our local roads (conditions are still tolerable for most drivers and operating speeds are not satisfactory) pg. T59

Transportation Element of 2007 Comp Plan –

LOS for peak hour standard for non-State and non-County related community streets and local neighborhood streets is “D”

Note: Roadways parallel to transit “E”

7/23/07 Carolyn Cooper
Comp. PLAN PUBLIC Hearing

Today you are faced with the decision whether or not to adopt this Comprehensive Plan EAR amendment. As a member of the Comprehensive Plan Task Force, the Citizens Vision Committee and a taxpayer in Winter Park, I request that you adopt this document with revisions that support the Planning and Zoning Commission's recommendations:

- 1) CBD FAR to remain 200%. Parking garages to be included in this FAR. This recommendation is consistent with the 1991 Comprehensive Plan. (Ref pg FL-17) The existing Comprehensive Plan allowed public parking to be excluded from FAR. By deduction private parking garages were included in FAR.
- 2) High Density Multifamily Residential development, at increased densities, not be a permitted use in Commercial zoning districts. This recommendation is consistent with the 1991 Comprehensive Plan.
- 3) The new Mixed Use Land Use Designation recommended FARs be accepted as proposed by Planning and Zoning.

I feel the following changes can easily and quickly be made to protect our Concurrency Management System. I feel that this Comprehensive Plan as written does not demonstrate that we have a financially feasible plan to provide the guaranteed level of public services to the future projected population. Our CIE 5 year plan must demonstrate this financial feasibility. Without a good population projection, our 5-year plan is flawed. In the ORC, DCA noted in several places that land use planning must consider the maximum allowable development of property when analyzing the future need for public facilities. That means Commercial properties would have to be evaluated at R4 density or 25 units per acre. Our population estimate does not adequately project future population. Our future population was estimated based on a Land Yield Methodology (Reference Housing Element DIA Ch3, pg 3-23). This Land Yield Methodology did not consider the following:

The permissible use of Commercial property for High Density Residential Development.

The anticipated annexations. Many of these annexations are proposed as High Density Mixed Use with heights reaching 8 stories. The DIA admitted this would be the biggest impact on our future population.

The Mixed Use Land Use Designation that has been included in this document after the original Transmittal in November 2006. This zoning is proposed along our major corridors.

A simple solution to bring our projected population and our 5 year CIE plan into compliance would be to support P&Z's recommendation to remove Multifamily High Density Residential development as a permitted use of Commercial property and to include a Policy that commits to study appropriate Mixed Use Regulations and include the Land Use Designation in our Comprehensive Plan at the next amendment cycle by January 2008.

I feel this Comprehensive Plan as written does not adequately protect our levels of service. I request you make the following changes:

Return our guaranteed levels of service to the levels included in our current Comprehensive Plan. In particular:

Protect our Parks Level of Service by applying it to annexations also.

Protect the Aquifer Recharge Level of Service by not exempting Mixed Use Projects.

Return our Local Roads Levels of Service to a "C" level. This Comprehensive Plan reduces it to a "D" level and an "E" level parallel to mass transit. (commuter rail).

Our Comprehensive Plan does not provide methodologies for collecting Proportionate Share contributions from developers to pay for the improvements to our roads or parks required to support their developments. Inclusion of proportionate share methodologies are required by State Statutes.

Please require the following administrative actions before you vote to adopt this document:

- 1). A complete copy of the final document must to be made available to the Planning and Zoning Board, the Citizens and this Commission for final review. The Comp Plan on line is not complete.
- 2) A cross reference be prepared showing changes between the Transmitted Comprehensive Plan (CP) and this adoption CP. It is nearly impossible to track all the changes between these two documents. It has been completely rearranged, wording changes have been made and not highlighted, new Policies have been added and old ones deleted. Many of these are not related to DCA Objections, Recommendations or Comments.
- 3) A simple chart should be prepared listing the DCA's Objections, Recommendations, and Comments. The chart should identify the Policy the ORC is satisfied and wording for how it was satisfied.
- 4)) Once all policy issues are voted on a thorough review for internal consistency must be made. Currently there are critical inconsistencies within and between elements. This inconsistency will create ambiguity. Ambiguity creates litigation.

Please submit these comments to DCA as part of this Adoption Hearing.

Respectfully,

Carolyn Cooper

7/23/07

SUBMITTED BY BILL
BATTAGLIA (VIA
Vikeme
Hubbard, Atty)

WINTER PARK COMPREHENSIVE PLAN UPDATE ISSUES
ADOPTION HEARING
JULY 23, 2007

Overview: The proposed Comprehensive Plan as forwarded to the City Commission by the Planning and Zoning Commission is unworkable, has not been tested against real-world conditions, will not create the intended village concept and will substantially affect property rights and property values. The proposal ignores the recommendations of the consultant (Brian Canin) hired to advise the City Commission on the Comprehensive Plan Update, evidence tendered by property owners regarding the problems in implementing the policies, and in some cases, the direction provided by the City Commission at the transmittal hearing. Once adopted into the plan, these untested and unworkable standards may not be changed without state review, and without the opportunity for challenge by affected parties. The issues covered below were not addressed in the Department of Community Affairs' Objections, Recommendations and Comments (ORC) Report regarding the Plan and the post-transmittal changes identified below were not mandated or required by the ORC Report. The proposed solutions should therefore not create problems with state acceptance. The concerns outlined below relate primarily to the effects of the Plan on the Central Business District, however, there are aspects of the proposed Plan relating to other areas that should also be reconsidered. Specific policy language for the solutions proposed below has been provided in the attached document, *Recommendations for Specific Policy Changes to the Winter Park Proposed Comprehensive Plan Update*.

Major Issues Affecting CBD:

1. Inclusion of private parking garages in floor area ratio (FAR)
2. Height limitations
3. On-site parking requirements
4. Effective Design Standards
5. Removal of R-4 as Compatible Zoning for CBD
6. Effect of Institutional Uses in the CBD on Tax Base
7. Unachievable Compatibility Standards

Issue 1: Inclusion of private parking garages in FAR

Canin Recommendation: Do not include private parking garages in FAR in any district. Do not treat private parking garages differently than public or institutional garages.

City Commission Direction: Do not include private parking garages in FAR within CBD

P&Z Proposal: Private parking garages, except for below-grade levels and uncovered top decks, shall be included in FAR in all districts, including CBD.

Effects of P&Z Proposal:

- Floor area of active uses is substantially reduced—achievable FAR even with below-grade parking (where that is possible) is approximately cut in half

- Current property rights are substantially reduced due to reduced floor area
- Vitality of CBD is diminished by replacing active uses with garage space
- Surface parking and at-grade parking structures are encouraged, rather than active uses at street level.

Small and irregularly-shaped lots (that are predominant in the CBD) cannot accommodate below-grade parking due to the configuration and geometry of the lots; often have complete or near complete lot coverage that cannot accommodate even at-grade parking; and likewise cannot physically, much less efficiently, accommodate above-grade parking. As a result, very few CBD properties can be developed in the village character Winter Park aspires to preserve and encourage under its Comprehensive Plan and many will be totally precluded from development or redevelopment at all. As an example, 158 East New England requires 1.75 square feet of parking structure for each square foot of active use, compared to more efficient suburban ratios of between 1.1 to 1 and 1.4 to 1 for the same number of parking spaces per 1,000 square feet.

Solution:

- **Do not include parking garages in FAR, especially in CBD**
- **Encourage creative and comprehensive shared parking solutions in the CBD**
- **Adopt Specific Policy Recommendations 1, 2, 6, 10 and 11**

Note: Policy 1-3.8.2 must also be revised if the City Commission elects to eliminate parking garage space from FAR calculations outside the CBD.

Issue 2: Height Limitations

Canin Recommendation: Building height map as a guide to undertaking future design work, and number of stories feels "generally correct." Recommended allowing up to 30' height for 2 stories, up to 44' for 3 stories and up to 58' for 4 stories.

City Commission Direction: Set 2 story height (30') in CBD, 3 stories allowed by conditional use.

P&Z Proposal: Sets 2-story height (30') in CBD, 3 stories (40') allowed by conditional use, requiring a supermajority vote of City Commission. No variances or PUD approvals may be granted to allow more than 3 stories.

Effects of P&Z Proposal:

- Requiring supermajority vote makes achieving 3rd story more difficult.
- Recommended height in feet allows insufficient floor-to-floor heights to achieve Class A 3-story building with commonly used construction techniques
- All flexibility for achieving even partial 4th story is removed, further affecting ability to achieve 200% FAR and desirable design solutions compatible with downtown character.

Solution:

- **Adopt height map as a guide, but also allow conditional use for 4th story, with appropriate step-backs and criteria to be set in the Land Development Code (LDC). Criteria shall include at a minimum step-backs to ensure pedestrian scale, and**

standards for façade articulation, massing and design transitions to neighboring properties

- Do not require supermajority for conditional use for 3rd and 4th stories.
- Use Canin recommendations for height in feet, and specify that these heights be measured to eave line to allow for pitched and other roof lines.
- Adopt Specific Policy Recommendations 2, and 4 - 9

Issue 3: On-site Parking Requirements

Canin Recommendation: Do not include private parking garages in FAR in any district. Do not treat private parking garages differently than public or institutional garages. Some aspects of this issue are not totally encompassed by the Plan, but also involve the LDC, which was outside the scope of his work.

City Commission Direction: Not specifically addressed by Commission at transmittal hearing.

P&Z Proposal: Reiterates requiring on-site parking for private uses; allows exemptions from FAR for public parking garages and public parking in private garages; states that City will focus on providing parking to address the existing parking deficit, rather than parking for allowable increases in the size of existing or new buildings, for expansion of the CBD or to accommodate mass transit.

Note: Parking requirements for CBD in the LDC are very high—more appropriate for auto-oriented suburban locations, since they require that more space be allocated for automobiles than for active uses.

Effects of P&Z Proposal:

- Creates auto-oriented rather than pedestrian-oriented environment
- Encourages taller buildings to accommodate parking structures
- Encourages parking structures rather than active uses at street level

Solution:

- Do not adopt policies which emphasize on-site parking in CBD and prioritize parking for existing uses
- Revisit LDC to reduce parking requirements in CBD
- Develop a workable overall parking plan for CBD that will strengthen and enhance pedestrian orientation
- Develop creative public/shared parking facilities in CBD in which property owners could purchase parking spaces to accommodate the parking requirements of their development or redevelopment
- Adopt Specific Policy Recommendations 10 and 11

Issue 4: Effective Design Standards

Canin Recommendation: "Comprehensive Plan is not the most suitable vehicle for dealing with the level of detail and complex design criteria.... The Comprehensive Plan is a relatively

"blunt instrument" for achieving this purpose. Far better and more sophisticated tools are available and should be used...."

"We believe the Planned Unit Development overlay and mixed-use category are vitally important tools for the City to effectively manage future development and obtain the most satisfactory outcome and strongly urge that these be retained as fundamental components of the Plan....the key to effectively managing the PUD and mixed-use provisions is to have a foundation of strong, effective and very detailed design guidelines tailored to each of the...planning areas."

City Commission Direction: Repealed PUD ordinance on December 11, 2006. At same meeting allowed for variances to setbacks, lot coverage and building height (limited to 2) through conditional use process.

P&Z Proposal: Recommended repeal of PUD ordinance. Comprehensive Plan proposal allows for no variances to exceed 3 stories or 200% FAR in CBD.

Effects of P&Z Proposal:

- Adopts into the Plan untested design criteria that will not achieve desired result of preserving and encouraging the village character of Winter Park and in combination will make development and redevelopment in CBD unfeasible
- No flexibility provided
- Will affect tax base and implementation of CRA plan and related revenues
- Will stifle excellent and even reasonably good design
- Cannot be changed without state review and without the opportunity for challenge by affected parties.

Solution:

- **Impartially select and retain independent duly-qualified urban design consultants to obtain input from all stakeholders and then develop design standards that will achieve the desired results articulated in the Comprehensive Plan goals and objectives. After the design standards have been tested and demonstrated to be an effective means of achieving these established goals, they should be incorporated into the Comprehensive Plan and LDC.**
- **At least until design criteria can be further explored and tested, provide for variances to height and FAR**
- **Adopt Specific Policy Recommendations 1-10**

Issue 5: Removal of R-4 as compatible zoning for CBD

Canin Recommendation: Not addressed by Canin—it appears that no one realized this change had been made.

City Commission Direction: At the transmittal hearing, the City Commission considered the issue of whether to repeal R-4 density and uses in the office and commercial zoning districts. They unanimously voted to require a conditional use unless a mixed use project was developed,

with the first floor being retail, restaurant or office; if the project is 100% residential, it can be denied. The approved motion also confirmed their intent to allow R-4 in these areas, instead of just R-3. They did not discuss eliminating these districts in the CBD, where R-4 is currently allowed.

P&Z Proposal: After transmittal, the P&Z once again removed the R-4 district from the office and commercial districts on the zoning compatibility chart in the proposed Plan. In addition, the chart allows only C-2 zoning for the CBD, while R-4 is allowed under the current plan.

Effects of P&Z Proposal:

- C-2 requires nonresidential on first floor, whereas R-4 would potentially allow 100% residential project
- R-4 in the CBD currently allows 4-story residential/5-story attached parking at maximum height of 55'
- Removing R-4 will place further constraints on appropriate urban uses in the CBD
- Cannot be changed without state review and again, without the opportunity for challenge by affected parties.

Solution:

- Retain R-4 as a compatible zoning district for CBD
- Revise CBD height limitations to accommodate current R-4 limits of 4-story residential/5-story attached parking at maximum height of 58'
- Adopt Specific Policy Recommendation 3

Issue 6: Effect of Institutional Uses in the CBD on Tax Base

Canin Recommendation: Not addressed by Canin.

City Commission Direction: This issue was discussed by the Commission at the transmittal hearing. A change was made to Policy FLG-12, to ensure that projects by Rollins and other institutional entities were compatible with adjacent neighborhoods and properties. The Commission also discussed concerns relative to impacts of expansions on the tax base, but was told by staff that since these expansions must go through the rezoning process, the Commission has the ability to "make a decision at that time."

P&Z Proposal: The language currently proposed directs the City towards accommodation of expansions by these entities. Policy 1-4.1.G.12 says "The City shall endeavor to accommodate" the expansion and physical development needs of the entities as long as the projects are related to the educational purposes and are compatible with adjacent properties.

Effects of P&Z Proposal:

- May be argued that under this language City Commission is obligated to approve the rezoning or conditional use if the criteria are met.
- Does not encourage these entities to make efficient use of existing facilities and properties.
- May result in impacts to tax base.

Solution:

- **Adopt Specific Policy Recommendation 12.**

Issue 7: Unachievable Compatibility Standards

Canin Recommendation: Not addressed by Canin.

City Commission Direction: Not specifically discussed by City Commission at transmittal hearing.

P&Z Proposal: The language currently proposed establishes criteria for determining compatibility and states that "The City shall promote compatibility between adjacent land uses by regulating new development or redevelopment in the following way" and then provides criteria covering a number of compatibility factors. Some of the wording of these criteria sets unattainable standards. To make matters worse, language that was in the transmittal package that said "Detailed land development regulations and guidelines will be developed to achieve these goals" has been deleted. Therefore, it appears that the intent is to apply these criteria directly from the Plan, and there will be no language in the LDC that might clarify application of the criteria. Subparagraph "e" of Policy 1-3.1.4, for example, precludes issuance of permits that "for any conditional uses that have buildings located proximate to property lines such that necessitate the removal of trees shared by both properties." Without further guidance in the LDC, this policy would never allow permits in such a circumstance, regardless of whether the use were highly desirable, even necessary; or whether the trees were unhealthy, an undesirable species or 3 feet in height. As Brian Canin observed, the Comprehensive Plan is not the appropriate tool for establishing detailed development standards.

Effects of P&Z Proposal:

- Sets unrealistic criteria that could be applied to virtually every development order and permit without the benefit of more specific implementing language in the LDC
- Creates almost limitless opportunities for challenge to development orders of all types and could thereby make development order approvals very uncertain.
- Does not provide clear guidance to development community on what is needed to obtain development approval.

Solution:

- **Adopt Specific Policy Recommendation 13.**

**RECOMMENDATIONS FOR SPECIFIC POLICY CHANGES TO THE
WINTER PARK PROPOSED COMPREHENSIVE PLAN UPDATE
(Based on July 18, 2007 version posted on City website)**

CBD-Related Policy Recommendations

1. **Policy 1-2.1.4: Floor Area Ratio Defined.** Floor Area Ratio (FAR) generally shall be defined as the sum of the gross horizontal areas of the several floors of a building or buildings measured from the exterior surface of the walls divided by the land area of the site. The site land area must be entirely one contiguous land mass and shall not include land isolated or separated from the main site by a street or water body. The gross floor area ratio in square feet of the building or buildings on the property (and contiguous properties being used in connection with such building(s) divided by the area of such property in square feet. This mathematical expression (gross floor area ÷ land area = floor area ratio) shall determine the maximum building size permitted. Basement areas or other below grade floor areas are excluded from the floor area when more than one-half of that basement or floor height is below the established curb level. The area of stairways, elevators, and multi-story rooms or atriums shall be counted on each floor level. The floor area of public garages shall not be considered as floor area ratio. The floor area of private parking garages (above-grade) or parking levels shall not be counted toward the floor area ratio when such parking is provided to meet the parking requirements of the Land Development Code except for the top open parking level if it is open and uncovered. The public parking component of any parking garage shall ~~may~~ be excluded from the floor area ratio calculation ~~by the City Commission.~~
2. **Future Land Use Map Designation Maximum Density/ Intensity Table**

Amend table to allow up to 4 stories in CBD, and amend note as shown below:

~~Note: All categories count private parking garage floor space toward FAR limits.~~
Maximum number of stories is determined by the Maximum Height Map.
3. **Future Land Use—Zoning Compatibility Chart**

Amend chart to allow R-4 zoning in CBD
4. **Policy 1-2.1.5: Maximum Height Defined.**
“Map 1-3: Comprehensive Plan Maximum Building Heights” designates graphically the maximum threshold for such building heights by stories. The height thresholds shall be measured to the eave line and do not include ancillary structures regulated by the land development code, including respective floor to floor heights, parapets, mechanical and elevator/stair components, and architectural appendages. The Maximum Height Map is intended to be used

together with the Future Land Use Map and designations to determine the maximum density and intensity (floor area ratio) permitted to be developed within the City of Winter Park. The combination is detailed in the Maximum Future Land Use Map Designation Density/Intensity Table. The City Commission is authorized to approve, as a special exception, one additional story in the Mixed Use District when the plan approval significantly increases open space, or preserves existing trees, or increases street front setbacks, but this in no way increases the maximum permitted floor area ratio from the original story limit criteria in the Future Land use Map Designation Maximum Density/Intensity Table.

5. Maximum Height Map

Amend maximum height map to allow up to 4 stories in CBD

- 6. Policy 1-3.2.2: Maintain the Character and Vitality of the CBD Environs.** The City shall maintain the character of the Central Business District (CBD), including the Park Avenue Corridor as one of the premier downtown retail shopping districts in Florida, by reinforcing attributes that underlie its ambiance and special character, including its pedestrian scale, the relationship of its buildings and their orientation to the street, the eclectic mix of architectural styles, the open space vistas of Central Park, and the predominance of small distinctive specialty shops. The Comprehensive Plan identifies the specific character of sub-areas and corridors within the CBD and its environs, including their function and form, density and intensity, building height, mass, articulation, and fenestration, as well as building relationships to each other and to the street. The Comprehensive Plan shall impose a two story and 30' height limit throughout the area designated CBD on the Future Land Use Map but, with the exception of properties in the Park Avenue and New York Avenue corridor, these height restrictions may be exceeded to a maximum 43-stories and a 5840' height limit if the development is approved by an extraordinary vote (four votes) by of the City Commission as a Conditional Use. Criteria for conditional use approvals for increased height within the CBD shall be incorporated into the Land Development Code and shall be intended to provide flexibility in exchange for quality design in keeping with the existing village character of Winter Park. Criteria shall include at a minimum step-backs to ensure pedestrian scale, and standards for façade articulation, massing and design transitions to neighboring properties. The conditional use approval for properties in the Park Avenue and New York Avenue corridor shall be limited as specified in Policies 1-3.8.8 and 1-4.1.G.3. The maximum floor area ratio within the CBD shall not include private parking garages which are either at grade or elevated in calculations of floor area. Subterranean parking garages and public parking garages shall be excluded from floor area calculations as shall public parking garages. Planned Development Overlay approvals or other variances for heights inconsistent with this policy more than three stories are prohibited. Third floors and fourth floors approved by conditional use along the Park Avenue Corridor must be setback on street

frontages equal to their height on a one foot setback for each one foot height of the third floor.

7. **Policy 1-3.8.8: Preserve the Pedestrian Scale and Orientation of the Park Avenue and New York Avenue Corridor and the CBD and Restrict Building Height.** The City shall preserve the pedestrian scale and orientation of the Park Avenue and New York Avenue Corridor by limiting development to two stories in height (30 feet) or three stories (4440 feet) (including any mezzanine levels) on a case by case basis via conditional use by vote of needing an extraordinary vote (four votes) of approval by the City Commission and by prohibiting new drive-in businesses within the C-2 zoning locations. Planned Development Overlay approvals or other variances for more than three stories are prohibited. Third floors approved by conditional use ~~along the Park Avenue Corridor~~ must be setback on street frontages equal to their height on a one foot setback for each one foot height of the third floor. The Park Avenue and New York Avenue Corridor is defined as those properties within the CBD fronting on Park Avenue and fronting on the east side of New York Avenue.
8. **Policy 1-4.1.G.4: Park Avenue Height Restrictions to Preserve Pedestrian Scale and Prohibition of New Drive-in Businesses in the Central Business District:** The City shall preserve the pedestrian scale and orientation of the Park Avenue Corridor by limiting development to two stories in height (30 feet) or three stories (4440 feet) (including any mezzanine levels) on a case by case basis via conditional use and by prohibiting new drive-in businesses within the Central Business District. Planned Development Overlay approvals or other variances for more than three stories are prohibited.
9. **Policy 1-4.1.G.5: Preserve Central Business District Pedestrian Scale and Orientation by Restricting Height:** The City shall preserve the pedestrian scale and orientation of the Central Business District as a whole by limiting development to no more than four ~~three~~ stories (including any mezzanine levels) in all non-residential zoning districts within the CBD planning area except as further restricted in Policies 1-3.8.8 and 1-4.1.G.4. Planned Development Overlay approvals or other variances for more than ~~three~~ four stories are prohibited.
10. **Policy 1-4.1.G.7: Address Unique Parking Needs of the Central Business District. Enforce Land Development Code Parking Requirements:** By July 1, 2008, the City shall continue to require parking, as directed by the Land Development Code, for any new building or new floor space constructed within the CBD develop a comprehensive parking strategy for the CBD in order to address the existing parking deficit and accommodate appropriate development and redevelopment, while maintaining the pedestrian scale and ambiance of the downtown. This strategy shall include consideration of innovative strategies, including public-private partnerships and shared parking structures. This process

shall include a reevaluation of the parking requirements for uses within the CBD to ensure that they reinforce the pedestrian orientation of the area.

11. **Policy 1-4.1.G.8: Manage Existing Off-Street Parking Deficit.** ~~The City's effort toward expanded public parking shall prioritize actions and programs needed to address the existing parking deficit as opposed to the provision of parking that would provide for a growth in the size of existing or new buildings or in the size of the Central Business District or provide parking for mass transit needs.~~
12. **Policy 1-4.1.G.12: Managing Expansion and Physical Improvements at Rollins College and Other Educational, Non-Profit or Other Institutional Entities.** ~~The City shall endeavor to accommodate, through conditional use reviews, the physical development building needs and campus expansion requirements through land use changes to an "Institutional" Future Land Use designation and a "Public/Quasi-Public" zoning district classification for Rollins College and other educational, non-profit or other institutional entities as long as those projects are directly related to the educational purposes of serving students and/or staff as long as those projects are compatible with impacts upon adjacent residential neighborhoods and properties.~~

The City shall encourage Rollins College and other educational, non-profit or institutional entities to use existing facilities and properties efficiently, so as to maintain the commercial vitality of downtown Winter Park and to limit the fiscal constraints imposed by tax-exempt property within the city. With consideration given to this principle, the City shall endeavor to accommodate the necessary physical development building needs and campus expansion requirements of these entities as long as those projects are directly related to the educational purposes of serving students and/or staff and as long as those projects are compatible with impacts upon adjacent neighborhoods and properties. These factors shall be considered in review of requests for conditional uses, "Institutional" Future Land Use designations and "Public/Quasi-Public" zoning district classifications.

General Policy Recommendations

13. **Policy 1-3.1.3: Compatibility between Adjacent Land Uses.** ~~Amendments to the Future Land Use Map shall only occur if the City Commission determines that the proposed amendment ensures land use compatibility. The City shall promote compatibility between adjacent land uses by regulating new development or redevelopment in the following way. The City Commission shall consider the following criteria in making this determination. The City shall also use these criteria in developing specific Land Development Regulations to promote compatibility between adjacent land uses:~~

a. Open Space, Landscape and Other Buffers. Require that appropriate open space, landscaping, and buffers, including but not limited to canopy trees, specimen trees, and shrubs, be preserved, protected and maintained between residential uses and nonresidential uses including parking lots. Additional buffering requirements such as walls and other architectural elements shall be established through the Land Development Regulations. A combination of architecturally designed capped masonry walls in combination with ~~aforementioned landscape plant materials shall be required to buffer potentially incompatible uses when the building mass, scale, and intensity of use, and adverse impacts are significant.~~ These criteria shall apply, except for mixed use projects incorporating residential and non-residential uses.

c. Off-Site Impacts on Adjacent Properties. Ensure permits are not granted for any conditional uses that will have significant adverse off-site impacts on adjacent properties from overflow parking, noise, odor, lighting or vibration.

e. Visual Impacts of New Development on Adjacent Properties and Tree Preservation. ~~Ensure permits are not granted for any conditional uses that have buildings located proximate to property lines such that necessitate~~ Conditional use approvals should include consideration of placement of buildings in order to avoid or minimize the removal of trees shared with abutting by both properties.

f. Traffic Congestion and Reduced Access to Adjacent Properties. Ensure that property access does not cause high levels of traffic congestion or other situations ~~that negatively impact onto adjacent properties that will prevent safe access to adjacent properties.~~

h. Preserve Functions of Natural Environment and Avoid Encroachments by Development. Ensure that no structures or uses are permitted in or adjacent to the wetland conservation areas that will intrude on the natural environmental functions of these areas as safe and secure habitat. *Comment: Can this policy ever be achieved? If not, it should be revised to provide an achievable standard.*